

**United States Election Assistance Commission**  
**Board of Advisors Annual Meeting**

Held at

9:00 a.m. EST

Tuesday, April 25 & Wednesday, April 26, 2023

Fairmont Washington D.C. Georgetown  
2401 M Street, NW  
Washington, D.C.  
20037

The following is the verbatim transcript of the United States Election Assistance Commission (EAC) Board of Advisors Annual Meeting that was held on Tuesday, April 25 & Wednesday, April 26, 2023. The meeting convened at 9:00 a.m. April 25 and adjourned at 5:08 p.m. April 26, 2023.

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## **CALL TO ORDER**

CHAIRMAN MOORE:

Good morning, everyone.

[Chorus of good mornings]

CHAIRMAN MOORE:

It's great to see everybody in person. I know many of us are meeting each other for the first time, and -- or are seeing each other for the first time in real life, so thank you for making the trip. Those of you who traveled, and those of you from D.C., thank you for bringing us together and coming together.

And thank you to the staff, also, who have worked very hard to pull this meeting together. They may tell you soon, but they've just come off of the Standards meeting in Phoenix, so they're doing this back-to-back, so we're going to give them a little break today. We're not going to make their life any more difficult. But thank you again.

My name is Greg Moore. I serve as Chair of the Board of Advisors. I'm happy to be here. I've been on the Board for quite a few years, but I had no idea I'd be the chair of the Board at this

point in my life, but it happened last year, thanks to a vacancy that opened with our former chair, Alison McLaughlin (phonetic), but thank you for coming and being a part of this effort. I think I'm going to turn everything over to our designated federal officer, who I don't see --

COMMISSIONER HICKS:

He's over here.

CHAIRMAN MOORE:

There he is. Okay, who is going to begin the meeting. I'll have some opening remarks, but I think we want to -- first things first, we want to start with our Pledge of Allegiance, so Commissioner Palmer?

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## **PLEDGE OF ALLEGIANCE**

[Commissioner Donald Palmer led the recitation of the Pledge of Allegiance.]

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CHAIRMAN MOORE:

Thank you.

## **WELCOME**

COMMISSIONER PALMER:

Well, hello, everyone, and welcome to the 2023 Board of Advisors meeting. I want to thank the ADFO Brady and all of our staff for putting this together for us. I'm Commissioner Palmer, and

I'm pleased to welcome you to the -- as the Designated Federal Officer of the Board of Advisors. Since we've last met here in person, there are many new faces on this Board, many exciting updates for the EAC, and the election landscape has shifted dramatically. I'd like to thank the Board members who joined us virtually for the last few Board of Advisors annual meetings, for making those events engaging and effective despite being virtual. We're very happy to see you all today in person.

Congress established the EAC as a bipartisan agency, but recognized the need for other viewpoints and stakeholder interests that may not be directly aligned with a particular party or viewpoint. Congress wanted the Board of Advisors and the EAC's other boards to advise and give recommendations to the EAC on voting system standards and other EAC priorities at the core of the Help America Vote Act. Each of you represents a stakeholder that we need to hear from, and this is an opportunity to do so.

One significant request that I would make today of you is to help to amplify our message. Please understand that the EAC is dedicated to communicating that we stand behind the nation's current voting systems. We seek to build voter confidence as we discuss our current certified voting systems for 2024, and as we start to transition to the new generation of voting systems with enhanced security, audibility, and accuracy.

Our message needs to be that Americans can be confident that their vote will be counted, and the vote totals will be accurate and secure. That message needs to be shared consistently and frequently through 2024 and beyond. Now, the EAC will lead the way in this effort, but no one voice is enough or can be enough. We need you to facilitate that conversation by allowing us to send materials to your members or perhaps speak with larger audiences in the hope that the message to the public reaches a critical mass and we are able to increase trust with the American people.

So, today we have a substantial agenda, but we have formulated the discussion to increase participation and feedback, and we would encourage that. The feedback is critical, along with the information we receive from our other Advisory Boards, the Standards Board, Technical Guidelines Development Committee, and the Local Leadership Council.

The Board of Advisors' makeup is very different from our other boards, but that makes it no less important. The diversity of backgrounds and perspectives, in addition to election officials, makes the feedback we receive from you extremely valuable on everything from accessibility to election security.

The meeting agenda is filled with updates on the EAC programming. You'll hear about the clearinghouse division and the dozens of new resources that have been developed for election

officials, as well as the expansion of the testing and certification program updates on VVSG 2.0 and the development of our election supporting technology evaluation program.

We're honored to have Representatives Steil and Morelle from the Committee on House Administration addressing the board today. I appreciate their insight and time that they take away from the Capitol to share their thoughts on elections and the priorities of the committee.

The EAC has also designed the panels in the meeting to cover a range of important topics, especially as we prepare for 2024. First, no one should be harassed, threatened, or demeaned at their place of work, and certainly not public servants, like election officials. That doesn't mean a reduction in transparency or public involvement, though.

Coordination by election staff across the country and law enforcement has been improving in identifying true threats to legitimate free speech, but there's still work to be done in the coming months to inform officials and staff on the best practices in working with local law enforcement.

Election audits are an important way officials can show the public that election results are accurate and that procedures are being followed. These audits should give voters confidence in our elections and that those votes are being counted.

Election officials have also been inundated with public records requests. Some are unnecessary and serve no meaningful purpose. With limited staff and budgets, responding to these requests, according to the law, can be a drain on resources and divide our attention from the election process itself. I'm looking forward to hearing about best practices in this area with the members.

Finally, last year, the EAC celebrated 20 years of HAVA, and we will celebrate the National Voter Registration Act's 30<sup>th</sup> year anniversary this year. These two pieces of legislation mark significant protections and progress for elections. We'll discuss the legacy and future of HAVA and the NVRA during tomorrow's panels.

Since 2020, there's been increased attention and scrutiny in to elections, but also criticism and speculation. I'm a big believer in the constant improvement of elections and preparations, so now is the time to prepare for elections in 2024.

Later this week, I'll be testifying about confidence in elections, and I look forward to highlighting many of the topics we're discussing today. Hearing your feedback and listening to your questions provides valuable insight of the work of the agency and the election landscape from your diverse perspectives.

Thank you all for joining the EAC and participating in today's meeting. I hope we have engaging conversations over the next couple of days, and I'll look forward to your feedback. Thank you.

With that, I'm going to turn it to my fellow commissioner.

CHAIRWOMAN MCCORMICK:

We're over here.

[Laughter]

CHAIRWOMAN MCCORMICK:

Well, welcome, and thank you to each of you for taking time out of your busy schedules to be here with us. We appreciate the advice provided to us by our Federal Assistance Committee Act Boards as we work to meet the mission provided to us by Congress, and that is to assist election officials across the country and to help Americans vote.

We are fully cognizant that the federal government does not administer elections. That is constitutionally the duty of the states. Our job is not to regulate elections, provide mandates, or tell the states what to do. We are here as a service agency, only to assist, which is what I often say is our middle name: assistance.

When the EAC was created, Congress was painfully aware of the many issues in election administration across the country, and while we've come a long way, there is still much to do to ensure integrity, transparency, and security in our elections.



We all agree that elections are the foundation of our constitutional republic, and our voters must have confidence in them and in their outcomes if we're to peacefully continue. I know that each of us comes here respectfully with the same goals: to improve our elections, to help those who do carry them out to do so professionally and fairly, and to help instill trust and confidence in the electorate -- I'm repeating what you're saying, Commissioner Palmer. Often, right?

[Laughter]

COMMISSIONER PALMER:

Yes.

CHAIRWOMAN MCCORMICK:

-- that the American elections are free and secure, and that they reflect the will of the people.

Again, I thank you for your time. I look forward to the meeting and listening to what each of you has to offer, and I, again, thank you for being here.

COMMISSIONER HOVLAND:

Thank you, Chair McCormick. It's great to be here. As Chair Moore said, we are just coming off of the Standards Board. This is a very different entity. It's nice to be at one table. The Standards Board, as you all know, is 110 members, representing each state and territory in the country. And as my colleagues noted,

you know, when I think about Board of Advisors, it really is the diversity of opinions that we get from this entity, and I'm really looking forward to this meeting and the conversation.

It's an exciting time at the EAC. It's, obviously, a very tough time for the election administration community, but we've been -- Congress has been able to support the EAC a little bit more in recent years, which we appreciate, and that has resulted in a lot of programs that I'm so proud of. I know my colleagues are, and we're looking forward to sharing some of that work with you today and hearing from you about your suggestions and advice for how we move the agency forward. Thank you.

CHAIRMAN MOORE:

Thank you. Mr. Hicks?

COMMISSIONER HICKS:

Thank you, Chair Moore. I want to thank you all for -- I'm so sorry. I want to thank you all for coming here today. It's been a long time since I've seen many of you in person. It's great to see you all. There's been a lot of changes at the agency, a lot of changes for the positive as well. We've done a lot of great things, and I'm looking forward to hearing from all of you. You have a unique opportunity to speak with/for presidentially confirmed commissioners to give your feedback on how we can improve

elections overall, and that's a great opportunity, and I hope that you take advantage of that.

As my fellow Commissioner said, we came off of the Standards Board meeting, which we had a lot of great dialogue, a lot of great feedback, and a lot of good discourse. I'm looking forward to hearing the diverse community in here today as we debate moving forward with the election processes. And with that, you know, we have a great program for the next two days, and with that, I'll turn it back over to Chairman Moore.

CHAIRMAN MOORE:

Thank you, Commissioner Hicks. Commissioner Palmer, I think we would need you to ask for the proxy report at this time.

## **PROXY COMMITTEE REPORT**

COMMISSIONER PALMER:

All right.

COMMISSIONER PALMER:

And now, we'll accept the report from the Proxy Committee.

CHAIRMAN MOORE:

Thank you. I'll now recognize Secretary Mark Ritchie .

MR. RITCHIE:

Thank you, Mr. Chairman. We have the following proxies:  
Sarah Ball Johnson proxies her ability to vote to Linda Lamone.

Benjamin Nadolsky proxies his ability to vote to Hannah Ibanez.  
Dean Logan proxies his ability to vote to Joseph Gloria. Secretary Ardoin proxies his ability to vote to Secretary Way, and when she's not in attendance, to Cleta Mitchell. Secretary Way proxies her ability to vote when she is not in attendance to Ricky Hatch.  
Elizabeth Howard proxies her ability to Eric Fey when she is not in attendance.

Thank you, Mr. Chairman.

COMMISSIONER PALMER:

Without objection, this proxy report is accepted. As a reminder, proxy voting is allowed for all business matters, including executive officer elections.

I'm going to turn this back over to Secretary Mark Ritchie for the roll call.

### **ROLL CALL; DETERMINATION OF QUORUM**

MR. RITCHIE:

Thank you very much. For the roll call, we've heard the proxies. We're just getting a few e-mails from folks, so I'm going to just start from the top. Please say present if you're here, and there'll be a couple people added that we would not have seen, just because we're just getting word just now, so, Mr. Chairman, I'll proceed.

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[Mark Ritchie, Secretary of the Standards Board, called roll.]

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MR. RITCHIE:

Mr. Chairman, I believe we have our quorum, having more than 18 people present.

### **OATH OF OFFICE**

CHAIRMAN MOORE:

That's wonderful. Thank you very much, Secretary Ritchie. I will now turn the floor back over to our Designated Federal Officer to administer our oath of office.

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[Commissioner Palmer led the recitation of the Oath of Office.]

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COMMISSIONER PALMER:

Chairman Moore?

### **INTRODUCTORY BUSINESS**

CHAIRMAN MOORE:

Thank you, Board Members, and congratulations on your term in office for the Board of Advisors for this session. I would like to now turn our attention to the screen, where I believe we will have the agenda present there. Also, all of you should have packets, where the agenda is in those packets, and I would, at this time, like to entertain a motion to adopt the agenda as presented.

MR. FOGARTY:

So moved.

CHAIRMAN MOORE:

So moved by?

MR. FOGARTY:

John Fogarty.

CHAIRMAN MOORE:

Is there a second?

MR. STARK:

Second. Philip Stark.

CHAIRMAN MOORE:

Stark moves. Fogarty seconds. It is moved and seconded that this body adopts the agenda before you. I will now take a voice vote to adopt the agenda. All in favor, say aye.

[Chorus of ayes]

CHAIRMAN MOORE:

Opposed?

[No response]

CHAIRMAN MOORE:

Thank you. The ayes have it, and the agenda is adopted. I would like to remind all members that they were sent the annual 2022 minutes ahead of the meeting. I'd like to now call for a

voice vote on the minutes of that previous meeting. Is there a motion to accept the minutes from the previous meeting?

MR. DICKSON:

So move. Dickson.

CHAIRMAN MOORE:

Moved by Mr. Dickson. Is there a second?

MR. HATCH:

Second. Hatch.

CHAIRMAN MOORE:

Second by Vice Chair Hatch. All those in favor of approving the minutes, say aye.

[Chorus of ayes]

CHAIRMAN MOORE:

Oppose?

[No response]

CHAIRMAN MOORE:

The ayes have it. Thank you.

It is now moved and seconded that this body adopts the minutes. We've taken the vote. Now, I will announce the Election Certification Committee spokesperson, who is Linda Lamone, who is here with us again. And there are two other members, and I think I have the wrong -- the two other members, I do not have.

MS. BRADY:

You've been appointed, Eric Fey and Shane Schoeller.

CHAIRMAN MOORE:

Eric Fey and Sang Schoeller.

[Laughter]

CHAIRMAN MOORE:

Right. You don't know what you're going to get when you come to a Board of Advisors meeting.

[Laughter]

CHAIRMAN MOORE:

This committee is basically -- pursuant to the bylaws, we now have appointed our three members to the committee. The committee will announce the nominees for the Executive Office position described in the election process and certify the election results.

I recognize Board Member Lamone as the spokesperson for this process.

MS. LAMONE:

Thank you, Chairman Moore. The nominees are Chair Greg Moore, Vice Chair Ricky Hatch, Secretary Mark Ritchie. In accordance with the bylaws, if there is only one nominee for an office or position, the election of that officer shall take place by voice vote.



CHAIRMAN MOORE:

Thank you. In accordance with the bylaws, if there is only one nominee for an office or position, the election of that officer shall take place by voice vote. I now recognize Vice Chair Ricky Hatch.

MR. HATCH:

I will now entertain a motion to take a vote to elect Greg Moore as chair of the Board of Advisors.

MR. FOGARTY:

So move.

MR. HATCH:

Moved by Member Fogarty. Second?

MR. STARK:

Second.

MR. HATCH:

Second by Member Stark. Thank you. Let's see. Any other objections? Okay. It is moved and seconded that this body elect Greg Moore as chair of the Board of Advisors. All in favor, say aye.

[Chorus of ayes]

MR. HATCH:

All opposed, say nay.

[No response]

MR. HATCH:

The ayes have it, and Greg Moore is elected Chair of the Board of Advisors.

CHAIRMAN MOORE:

Thank you very much.

[Applause]

CHAIRMAN MOORE:

That is the easiest election I've ever been a part of.

[Laughter]

CHAIRMAN MOORE:

I will now entertain a motion to take a vote to elect Ricky Hatch as Vice Chair of the Board of Advisors. Is there a motion?

MS. WAY:

I'll move it.

CHAIRMAN MOORE:

Could you say your name, please?

MS. WAY:

Way.

CHAIRMAN MOORE:

Secretary Way has moved. Is there a second?

MR. GLORIA:

Second. Joseph Gloria.

CHAIRMAN MOORE:

Joseph Gloria is the second. It is now moved and seconded that this body elect Ricky Hatch as the vice chair. All those in favor, say aye.

[Chorus of ayes]

CHAIRMAN MOORE:

Opposed?

[No response]

CHAIRMAN MOORE:

The ayes have it. Congratulations, Mr. Vice Chair.

[Applause]

CHAIRMAN MOORE:

I will now entertain a motion to take a vote to elect Mark Ritchie as Secretary of the Board of Advisors. Is there --

MR. DICKSON:

So moved. Dickson.

CHAIRMAN MOORE:

So moved by Jim Dickson. Is there a second?

MS. SIMONS:

Second. Simons.

CHAIRMAN MOORE:

Second by Member Simons. All those in favor of Mark Ritchie as the Secretary of the Board, say aye.

[Chorus of ayes]

CHAIRMAN MOORE:

All opposed?

[No response]

CHAIRMAN MOORE:

Hearing no objection, the ayes have it. Mark Ritchie, you are now elected the Secretary of this Board.

MR. RITCHIE:

Thank you.

[Applause]

CHAIRMAN MOORE:

I will now turn this back over to Chair Lamone.

[Laughter]

MS. LAMONE:

Thank you. The Election Committee now certifies the results of the voice vote for the election of executive officers of the Board of Advisors.

CHAIRMAN MOORE:

Thank you. It's been so moved, and we accept that report. Thank you for your service, both here on this board and your many years of service to the State of Maryland.

[Applause]

CHAIRMAN MOORE:

If you'd like to say a few words, you can. This is actually the time to do it.

MS. LAMONE:

Well, I just want to say thank you to everyone here that I know and those of you I'm meeting for the first time. I've been on this Board, I think, since the inception.

MS. LAMONE:

And I think we've accomplished some good things and hopefully help the EAC out a little bit every now and then, but it's been a pleasure to work with all of you. And thank you for letting me say a few words, Greg.

CHAIRMAN MOORE:

Absolutely. Thank you. You set an example as how chairs should operate, and we appreciate the leadership that you've shown, so thank you again for your --

MS. LAMONE:

Thank you.

CHAIRMAN MOORE:

-- many, many decades of service.

We would now like to recognize the Acting General Counsel of the EAC, who will go over our Board's responsibilities as under the Help America Vote Act. Amanda Joiner, the chair is yours.

MS. JOINER:

Good morning, everybody. It is good to see all of you outside of our Zoom windows. I believe my presentation should come up in just a moment. Let me move through here. Okay. Maybe not.

Okay. Thank you, Chair. As you said, I am Amanda Joiner. I'm the Acting General Counsel and the Committee Management Officer here at the EAC, and today, I'd like to talk to you all about membership responsibilities, for those of you who are members of a FACA Board, which all of you are.

For most of you, this may be a bit of a refresher, but those of you who are new, I hope you get something out of this, and if you have any questions, feel free to reach out to me, here in person, or e-mail, whatever you need. I'll be there to answer those for you.

So, as you know, the Help America Vote Act established three permanent advisory boards. We also, in 2021, established a fourth advisory board, the Local Leadership Council. The Board of Advisors, Standards, Technical Guidelines Development Committee and Local Leadership Council, are all subject to the Federal Advisory Committee Act.

And FACA was enacted in 1972. It governs advisory committee establishment; operations and management of advisory committees; the duration of advisory committees. Essentially, what FACA was trying to do was to facilitate additional transparency into

how federal agencies operated, by laying down some parameters on how the advisory committees would operate. There's several requirements, including naming a designated federal officer, committee management officer, and there's records retention requirements and other issues, including charter renewal procedures that we must follow.

More specifically for you, though, the duties of each of our four advisory committees are listed here, and I'll only go into the duties that you and the Standards Board are both tasked with, which are the requirement to review the Voluntary Voting System Guidelines, the Voluntary Guidance under Title III, and best practices contained in the reports that we submit to Congress.

Individually, you do have the responsibility to participate in meetings and on subcommittees as appropriate, including when you're named on the spot to a committee in a meeting. You're also required to comport yourself with integrity so as not to trade upon your position as a member of an advisory board for your own personal benefit. This is a pretty essential part of your responsibilities. It requires that any permissible direct communications with Congress in your official capacity as a Board member be made only through official channels here at the EAC.

This leads into the federal law prohibition against you being a federally registered lobbyist. However, I do note that these

restrictions do not prohibit you from lobbying members of Congress or your state legislatures or urging others to do so on your own time in your personal capacity. So please, if you do find yourself doing anything in that realm of activity, make it clear that you're not representing the EAC or the Advisory Board of which you are a member in that activity.

I mentioned earlier the agencies are required to appoint Designated Federal Officers who are responsible for the management and supervision of agency committees. We must also have a charter filed for each of our committees, and those charters must be renewed every two years, or they will be terminated. And I'm happy to say that a couple of weeks ago, the charters for all four of our boards, including the Board of Advisors, were renewed by the Commissioners, so our charter is now good until April 12, 2025, which, believe it or not, is not that long from now.

[Laughter]

MS. JOINER:

Now, a little bit on the membership guidelines for those of you who are named to the Board. Selections are generally required to be balanced in terms of the point of view represented and geographical representation. I think, especially for us, we can value that in the elections administration community, the different



perspectives that all of you bring. Meetings are required to be open to the public, and the DFO approves all committee and subcommittee minutes and agendas. All of these agendas and minutes are posted to the EAC website, so if you're looking for a historical review of what our boards have done, you can find minutes, agendas, and transcripts on our website, which is due to be updated anytime now, so that would be really nice.

This is a bit more about what the minutes are required to entail: date, time, and location; record of attendees present; and complete and accurate description of each matter that was discussed or was planning to be taken up at that meeting.

And then, of course, our Designated Federal Officers, Commissioner Palmer, for everyone here, the Board of Advisors. Commissioner Hicks is the Standards Board DFO. Chairwoman Christy McCormick is our DFO for the Technical Guidelines Development Committee. And Vice Chair Ben Hovland is our DFO for the Local Leadership Council. The commissioners do rotate these roles, so they rotated into these new positions in February of this year, and I know they're all looking forward to working with you in those capacities.

The EAC has also taken the step of naming alternate designated federal officers, so you all are very aware now of Sara Brady, who is our amazing ADFO for the Board of Advisors.

Kim Smith, the Standards Board ADFO we mentioned already, great meeting last week. Jon Panek, who I believe has a presentation for you today, is the ADFO for TGDC and Kammi Foote is our ADFO for our newly established Local Leadership Council.

And last, I want to go over the procedures for the bylaw amendments that you will consider today. Per the bylaws, the current bylaws, the Board may amend the bylaws with a two-thirds vote of the members present in person and by proxy. The proposed amendments must be submitted to the DFO 45 days prior to the meeting. The DFO transmits the changes to the Bylaws Committee for consideration, and the committee submits the proposed bylaws to the full Board.

I will certify to you, as I have in writing already, that the amendments that you will consider today have followed this procedure and are properly being placed before you today for your consideration.

Now, the amendments you will consider were originally proposed during the 2022 annual meeting some of you may recall. Those two amendments that were essentially tabled were taken back to the Bylaws Committee for extensive review, editing, and evaluation of all of the feedback that everyone submitted on these two particular amendments. Those amendments, in their final form

which you will consider today, were circulated some time ago via e-mail. I believe Sara sent that over to everyone, so everyone should have had an opportunity to review them.

But today, you will also have an opportunity to debate and vote on the amendments, subject to two important procedural steps, or procedural points, I should say. One, non-substantive amendments, such as those to correct typographical areas, syntax and the like, those can be considered today, but in the interest of time, we are going to hold off on any substantive amendments that may be proposed today. That is not to say you cannot propose a substantive amendment, but if you do, it will be taken back, and that amendment will not be voted on today. However, I do remind you that all of you were sent these amendments a while back, and hopefully any questions that you have had were already addressed.

And the last point I have here is if there is something that is sent back, the Chair may entertain a motion to recommit to the Bylaws Committee for further consideration of that particular amendment.

That concludes my presentation. As I said, please feel free to reach out to me here in person. My e-mail and direct line here is available to you as well. And I look forward to our meeting here today.

I will turn it back over to you, Chair. Thank you.

CHAIRMAN MOORE:

Thank you very much for that report. Are there any quick questions for our Acting General Counsel?

[No response]

CHAIRMAN MOORE:

All right. If not, I want to turn this back over to DFO Palmer, who will make a quick announcement about what we're going to do next.

COMMISSIONER PALMER:

So we are ahead of scheduling. Chair Moore and I talked about introducing ourselves to each other. A lot of new faces. A lot of diverse groups represented. So what I thought we would do, and the Chair sort of agreed, is that we would go around the table and introduce ourselves and perhaps spend maybe a half a minute to a minute what's on your mind, what's your concerns, and what do you hope to achieve here, you know, at this meeting. We have about at least 20 minutes, subject to our next speaker arriving, so, Chair, I thought that would be a good idea. Would you like to --

CHAIRMAN MOORE:

Okay. Well, what we're going to do then, we can start it at -- from the beginning of the table to the back of the table, but I think we can get through all of it. I think he's expected to arrive at 10:00,

so if we don't get to everyone, we'll stop, and then we'll pick it back up after we finish. But thank you for that, Commissioner Palmer.

How do we want to start?

We'll start with Greg Moore. Let me do that, first.

My name's Greg Moore. I've been on the Advisory Board I believe since 2014, and I have worked in this area of voting rights for a number of years, both as an advocate and a strong supporter of the EAC and very active in early years for the passage of the National Voter Registration Act that you will hear about tomorrow during our presentation.

And I think what I'm looking for out of this meeting and this term of office is to basically build a stronger alliance between this Board as well as the Standards Board and your new Leadership Council that has been established. Those are three bodies that have responsibilities for the work that many of us do in our day-to-day jobs, and we believe that this Advisory Board has gotten stronger. The EAC's gotten stronger and better funded, and we can use a lot of this intelligence around the room to help build those allegiances, so that would be my hope.

MR. HATCH:

Good morning. My name is Ricky Hatch, and I am the Weaver County Clerk Auditor. That's in Utah, just a little bit north of Salt Lake.

I've been a member of the Board of Advisors first in 2015 and then took a little break as IACREOT and NACRC merged to form IGO, and now I'm back and represent the National Association of Counties.

I'm excited to work with Chairman Moore and of course everybody here. I come to these meetings, and it's really humbling to see the caliber of people around this table, and I look up to so many of you. It's really impressive, so I'm looking forward to working with you and working together as an Advisory Board to advise our good Commissioners.

MR. RITCHIE:

Thank you. My name is Mark Ritchie, and I've been serving since the creation of the Advisory Board as an appointee from the Rules Committee of the U.S. Senate. I was Minnesota's Secretary of State, elected in 2005. I promised my wife two terms, and I was fortunate enough to do that, and I kept my promise, and I've been retired for a little while.

I get back to Washington occasionally because I serve as Minnesota's civilian aide to the Secretary of the Army, and I'm struck by the value of and the meaning of the oath that we took, which is an oath I took in coming into office and an oath I took becoming the civilian aide to the Secretary of the Army, and I think it's the seriousness about the public's work that we take, all of us

and those of you that I know personally, I know the seriousness by which you take this work, and that inspires me, and it keeps me going, and it keeps me pretty busy involved in election-related work, even though I'm officially retired.

MR. SCHOELLER:

Good morning. Shane Schoeller, County Clerk in Green County, Missouri, and this is, I guess, on my eighth year of being a member of this Board. I was appointed in 2015, as through the Rules Committee.

And really, I think what I'm hoping today is that we can continue to find ways that we be more helpful to local election officials. What I see, especially in our rural counties in Missouri, there is a lot more examination in terms of public interest of what is happening with local election officials, what can we do to come alongside of them, to be helpful to them, to give them the tools, the necessary resources they need to be the best at what they do, and I think that the word I think of is collaboration in terms of we're all in this together.

And so if we can come alongside, help them be better at what they do, because I think sometimes we forget they have many other administrative duties that they have to undertake in terms of the roles that they have outside of elections, and so what can we do to help them, so they can be the best, especially, for example

our state, I have -- I'm glad to be joined by Eric Fey today, he'll tell you we have almost 40 new election officials since the 2020 election, and so we've had a number resign and a number who cannot run again, a handful that lost in the re-elections, but that's a concern that I have, and we want to make sure that we can, in this body, to come alongside and help them.

MR. FEY:

Amen, brother. Everybody, my name is Eric Fey. I'm the Director of Elections, St. Louis County, Missouri Board of Elections there. I represent IGO on this Board. I was appointed last year, I believe, the Election Officials Division Director at IGO.

And you know, that's a big focus of mine in this field is professional development for election administrators, because as Shane just said, in Missouri and a lot of states, we've had a big turnover in local election administrators. I know, as one former EAC Commissioner was fond of saying that elections are run at the local level. You know, states don't run elections; local administrators do. And so, as we see this turnover, hopefully the resources that EAC provides can be, as Shane said, brought alongside of them to help them out.

So I'll stop there and pass it on. It's nice to be here today with everybody today. Thank you.

MS. MITCHELL:



Good morning. My name is Clela Mitchell. I am the appointee. This is my first in-person meeting. My first meeting was the Zoom call last year. I was appointed last year by the U.S. Commission on Civil Rights, and I serve at their pleasure. I'm also the founder of Election Integrity Network.

I work every week with hundreds and hundreds of local election integrity task forces, state election integrity coalitions, and we run nine national working groups on various aspects of election administration, and my goal is to hopefully help give voice to citizens who are paying attention, many for the first time ever, and try to help both the election administration community and the citizens understand that they are not adversaries. We want to train volunteers. The very first thing we tell them is get to know your local election officials. Be right and be polite.

And look, I mean, I understand that there's a continuum of citizen engagement and the people who get involved, and as I always say, I have a very high tolerance for grass roots and no patience at all with crazy, and it's important to be able to discern the difference. There are a lot of people who think I'm crazy. That's fine. They can choose to do that.

But I'm telling you that we have to look at this involvement and engagement of citizens as a positive not a negative. Just as I say to the volunteers and the citizens, the election administrators

are not your enemies. I say that to the election administration community. Citizen involvement is a good thing. It is not a bad thing, and my goal every day is to try to help with election administration and help give sunlight, transparency, and accountability to the process, because if we don't, if people decide -- and there are a lot of people who are thinking this way, which I hate to hear -- that their vote is not going to be counted accurately and not diluted by illegal votes, votes cast in violation of state law -- and that's not fraud, that's just illegal voting -- and if we don't realize that that's happening, it is happening.

If we don't work on cleaning voter rolls, we need to clean voter rolls. The voter rolls are a mess. Citizens know that. So let's work together. And my goal is for us to be able to work together and to understand that citizen engagement is a good thing, not a bad thing, and let's stop treating citizen questions as threats, harassment, intimidation, but let's help the citizens know the best way to approach their election administrators so that we can all get along. Thank you.

CHAIRMAN MOORE:

Thank you.

MS. SIMONS:

My name is Barbara Simons. I've been on this Board since 2008, which I find kind of astounding. I'm a computer scientist by training, retired from IBM Research.

I got involved with the voting issues back in the very early 2000s when, like a number of other computer scientists, we realized that computers were being brought into our elections but sometimes not in a very positive way. Computers can really contribute a lot to elections, but they have to be used properly.

So when paperless voting machines, which are basically paperless computers, were introduced and widely purchased, that got us very concerned, because there was no way to check on the results. So I'm sure you all have heard of the paper trail, blah, blah, blah. Well, you know, we were the ones who started yelling and screaming about that except it should be paper ballots, not paper trail.

I believe that the best way to push back on the whole Stop the Steal movement is by having transparent and secure and accurate elections. Transparent so that citizens can see that the results have been correctly obtained. That means paper ballots, strong chain of custody, and rigorous post-election ballot audits to check on those computers that count our ballots because scanners are computers. And I'll stop there.

MR. STARK:

Hi. I'm Philip Stark. I'm a Professor of Statistics at University of California at Berkeley. I've been on the Board since 2016. I guess I represent the House Minority Leader currently.

In 2007, as an outgrowth of work for the California Secretary of State's Office, I invented something called risk limiting audits, which are now endorsed by the National Academies and are either authorized or required by, I think, about 15 states. I've conducted the first dozen or so pilots of those in a couple of states. I've helped any number of states write legislation around this kind of thing.

In 2012, together with David Wagner, I introduced the idea of evidence-based elections. It's the basic idea that it's not enough for election officials to figure out who really won. They also need to provide convincing, affirmative public evidence that they found who really won. And all my thinking around elections is really organized around that idea. We have to run elections in such a way that people have a reasonable basis for believing that the outcome is right.

And I could talk more about technical details, but I'll pass it on to Chris Walker.

MS. WALKER:

Chris Walker, Jackson County Clerk from the beautiful State of Oregon. I'm very happy to be part of this Board. I believe I was

appointed in 2019 to replace the amazing Linda von Nessi, who was also an original member from New Jersey. She's still working hard but decided to bow-out back then, so I'm really honored to be able to replace her on this Board.

I love all the comments that people have said concerning elections, and I hear you. I was hired in 1995, entry level, just data entry into our office, and then in 2008 was appointed when my clerk retired and then duly elected in November of that year, so 15 years elect county clerk.

I'm truly a grassroots effort here. I was born and raised in Talent, Oregon, a very small, 4,000-people community where I live, but we continue our good works years later here in the office. And I also agree with the comments, the County Clerk Elections Official is but one role that we have. We also act as the Recorder, deeds and property records, marriage licensing, board of property tax appeals hearings, as well as archive services, so this is but one faction of our roles that we hold within the State of Oregon.

One of my pet peeves, too, and I guess pet peeves, one of my things I'd like to see change is, of course, election funding consistent, regular, and timely. We are one of the offices that we are expected to be self-supporting, so we pay for all of our elections based on the recording fund, and right now, current moment, we are probably three-quarters of a million in red this year, so our

general fund is having to backfill. We also lost two people recently in our county clerks recording and elections program, so instead of eight people, we now have six people to do all elections, as well as all the other functions that we have. So it's going to be a very challenging year next year leading into a presidential election year, but without stable funding and the mortgage rates going down, this is our reality.

Now, not every Oregon county budget's that way, but ultimately, it does result in that, because every County Clerk's office does have to be backfilled due to the recording fund lowering.

So anyway, just one of my items I would like to bring up is about the funding. And the advocacy here at this level is amazing, so thank you so much. Oh, and I as well was with IGO. I think I mentioned that.

MS. KAGAN:

Good morning. I'm Cheryl Kagan. I always introduce myself as saying I'm very proud to be the Senator for Gaithersburg and Rockville but in a national group, you probably don't know where that is, but it's suburban Maryland outside of here. Very proud to be part of our Maryland contingent with Linda Lamone and then Alisoun McLaughlin is going to be joining us in a bit.

I started my political career doing election stuff, working on elections, and I now Vice Chair of the committee and kind of the

point person on elections. My committee handles all elections stuff. And our fabulous new governor, Wes Moore, just signed all the election bills yesterday, including a whole lot of mine.

I am here, representing NCSL, the National Conference of State Legislatures, and we've got one D and one R and look forward to bringing the local voice.

I have worked on issues about funding, shared state/county funding, transparency, accountability, and Maryland was the only state in the country, until the law was signed yesterday after it was vetoed last year by our former governor, the prohibitive counting, processing, canvassing mail-in ballots until after election day, which meant really long delays in certifying our election results. So we're starting to fix and update some of our stuff.

And I would just close by saying that I had an intern research the members of this commission, and all of you are so impressive, and I'm looking forward to learning from you all and being a part of this, so thanks very much.

MR. FERRARESE:

My name is Tom Ferrarese, and I was the former Commissioner of Monroe County, New York -- upstate New York, Rochester -- for about 20 years. Prior to that, I was with actually Chase Bank for about 25 years in a technical area, managing several of their clients or applications. I've actually been involved in

the election process since the mid-'70s and specifically with the Board of Elections and their various activities.

As the Commissioner in Monroe County, I also served as the Chair of the Executive Committee of the Commissioners State Association in New York for eight years. I was known for technology, bringing new ideas to the table. That's something that I feel strongly about. We actually, 20 years ago, were posting online the information about people getting absentee ballots, whether we receive them back, if they were cast okay, all of that kind of stuff. We were providing sample ballots 20 years ago. We really tried to kind of put the information out there.

I feel strongly that we need to work with community groups, as was mentioned down here, be very transparent with them, actually bring them into the process in terms of what we do. I also felt very strongly about making sure that the press had an open door. I invited the press often to come in and to watch, to see, to understand what we were doing. I also challenged them at that point to then make sure that they put it out there, even as boring as it might be, because very often, that's what they discovered when they could actually see the inside.

I think we really have got to convince people that elections are secure, are safe, and that means that we really have to make



sure that we're providing a process by which they can see that and feel involved and part of it.

MR. WIEDMANN:

Good morning. I'm Scott Wiedmann with the Federal Voting Assistance Program. I'm currently the Acting Director of that program. I've been with the program since 1993. I've had the privilege of working with every elections commissioner over the years as well and look forward to working with this committee as well just to help facilitate that communication between voters and the election officials, helping to make sure the election officials know the resources that we have available for them. Thank you.

MR. GLORIA:

Good morning. My name is Joseph Gloria. I am currently the new Chief Executive Officer for operations with the election center and serve as their representative here along with Dean Logan, who cannot be here today.

I began working in elections back in 1992 in the State of New Mexico, Dona Ana County. I started as a voting machine technician, not long after moved to Clark County, Nevada, where I worked and retired, moving from a voting machine technician up to the position of Registrar of Voters.

I hope to add value in all discussion related to elections, but in particular, in my experience in Clark County, I think we all want to

work towards transparency for all voters, for everybody who's concerned about what the processes are and upholding the integrity of the process, and I think, though, it's also very important that we work to create a safe and secure environment for all of our election officials and the poll workers who are challenged to work at the polls.

So I look forward to conversations in those areas, and thank you for having me here.

CHAIRMAN MOORE:

I believe we're going to go one or two more, and then we're going to stop for the Congressman's remarks.

MR. FRID:

Okay.

CHAIRMAN MOORE:

Two more.

MR. FRID:

Good morning, Board of Advisors. My name is Steven Frid. I am the new Executive Director of the EAC. It's a pleasure to be here. I started my elections career in 2023.

[Laughter]

MR. FRID:

So very, very early in my career. I have a 15-year government career, and I guess what I'm looking forward to, over

the next two days, is meeting most of you and talking about the great work that the agency has been doing in elections. So thank you.

MR. BERKE:

Good morning. My name is Elliot Berke. I apologize for being late. I had to get a third epidural in my back, and if any of you have ever had a bulging disc, you would realize that it is worth being late for even an important meeting like this today.

I am Speaker McCarthy's appointee on the Board of Advisors. I'm on my fourth term. I've been involved in election integrity issues for over 25 years. I run war rooms at the national and state level and practice law at a firm called Berke-Farah.

Speaker McCarthy cares deeply about election integrity issues, going back to his time as a staffer on the House Administration Committee. I share his concerns about transparency and verifiable transparency in elections, and I look forward to continuing to work with all of you. Thanks.

MR. FOGARTY:

Good morning. My name is John Fogarty. I'm an attorney in private practice in Chicago, Illinois. I practice full-time election law on the state level and on the federal level. I have, for 15 years or so, been heavily involved in election administration issues on behalf of clients in Illinois. I can relate to, and I'd like to amplify some of

the prior comments made by some of the others, beginning with member Cleta Mitchell.

From what I see, it is a good thing that individuals are paying much more attention to the election processes. It's fantastic. I think it's what we want. It's what we should want. By the same token, as counsel to a lot of very interested individuals, I understand very well, and I take great pride in, maintaining relationships with election administrators. It's crucial that they are able to do their jobs.

So I see this committee as straddling those two values, and I am here to give you the benefit of the regulated community's experiences and also not to belabor any further points, as the ranking member has arrived, but thank you.

CHAIRMAN MOORE:

Thank you, Mr. Fogarty.

We're going to turn it back to Commissioner Palmer, who's going to introduce our illustrious speaker for today.

## **COMMITTEE ON HOUSE ADMINISTRATION MAJORITY REMARKS**

COMMISSIONER PALMER:

Thank you. Thank you, Chair. I'd like to introduce Congressman Bryan Steil. First elected in 2018, Congressman Bryan Steil represented Wisconsin's 1<sup>st</sup>

Congressional District for the U.S. House of Representatives. In 2023, Bryan was appointed chairman of the Committee on House Administration. This committee oversees federal election law, House of Representatives operations, Legislative Branch oversight, and Capitol Security.

Bryan is focused on ensuring the House is open, secure, and accountable to the American people and on strengthening America's trust in our elections. Bryan has previously served as ranking member on the Elections Subcommittee last Congress. Thank you, Congressman.

MR. STEIL:

Thank you very much. You mentioned in your intro at last Congress I served as the ranking member of the Subcommittee on Elections, I always like to tell people that we never had one dissenting vote on the subcommittee in the minority, but that was because I was the only member of the Subcommittee on Elections, so Congressman G. K. Butterfield was the chair of that committee and used it kind of as an opportunity to kind of explore ways that we can work to improve our elections relationship. Now he's missed in Congress, as he's moved on into the private sector, but I say that jokingly.

As we look at our opportunity here, I think we have a great opportunity to continue to look at our elections and election

integrity, how do you make it easy to vote and hard to cheat. And in this new role as chairman of the Committee on House Administration, which is oversight over federal election law as it relates to the House, we have an opportunity to really dig into that.

One of the things I think that's really important is that we maintain our federalist approach. I think one of the real strengths in the American election system is that it is state and locally run, that it is not federally run, and so as you look at the legislation that we put forward with the ACE Act, I think that's one of the key defining features of it, versus some of the other legislation that we've seen in particular over the last Congress, is that it maintains a true federalist approach.

The chairwoman of the Subcommittee on Elections this cycle, now that I'm the chair of the full committee, is Congresswoman Laurel Lee. Some of you may know her. She was Secretary of State of Florida and managed and oversaw Florida's election system, so she's incredibly knowledgeable on this topic and has real substantive background, which gives us a real opportunity, I think, to have a robust agenda on the Subcommittee on Elections.

One of the first hearings that we will be holding this upcoming week is the American Confidence in Elections Act, which is the ACE Act, which is what I was referencing earlier, a bill that I

think actually provides our states with a lot of tools and resources, and it also sets kind of a gold standard as to how we can operate our elections, a real comprehensive approach to implementing kind of key election integrity reforms and using, in many ways, the District of Columbia to serve as a model for commonsense reforms that I think then could be utilized across the country.

This bill is based on, and in many ways is, the work product of the former Ranking Member Rodney Davis from Illinois, who I know some of you in this room know, and it -- I think as we went through that process of drafting this legislation last cycle, making refinements this Congress, we've really leaned in heavily on state legislatures officials, folks like yourselves, who have been able to provide input on this bill. I hope you take the opportunity to continue to do that as we move forward through what I view as a regular order process, meaning substantively using the subcommittee and committee process in the House of Representatives to take a bill, dive in, talk to experts from across an array of backgrounds and experiences and utilizing your ideas, your suggestions, as well as others, other stakeholders, to find ways to maybe improve or finesse this bill to make it work even better.

And I broke down the ACE Act. I look at it as kind of three main pillars. The first pillar, providing states with tools that they can use to boost voter confidence, removing some outdated federal

policies that get in the way. I'll kind of go through some examples here in a second, but one of the reasons I think it's so important to work to enhance voter confidence is I think we continue to see a correlation between confidence in elections and voter turnout.

So I think we saw that in states like Georgia, where you have enhanced voter integrity provisions be put in place. We've heard some on the left say that that would actually decrease voter participation. I think actually the empirical data says otherwise. The empirical data actually shows that more people voted in Georgia, and as you look at a lot of people's experience with voting, people felt actually really good about the process, and that's across a wide array of demographic groups, which I think is actually really important. I'm a firm believer that the more people that participate in our democratic process, the better off that we are, so I think that's a key component of this.

How does this assist states? It provides assistance and resources, gives things like -- a lot of states use Real ID as proof of citizenship and it provides resources to the EAC to allow it to focus really on the three key areas that I think are essential for the EAC, which is equipment testing and certification, grants disbursement and auditing, and the clearinghouse, which we'll be modernizing in conjunction with bipartisan EAC Standards Board. I think it'll enhance the federal forum that will encourage information-sharing



among states to help them develop and share best practices, again kind of looking back to the core federalist principles, allowing states to show those best practices, rather than substantively mandating them from a federal perspective.

Second, I think Congress has a constitutional responsibility to show the District of Columbia is governed effectively, and I think we've seen historically some challenges in the District of Columbia's election administration, and so to better serve D.C. voters, we really implement election integrity measures outlined model state legislation and so allowing, hopefully, D.C. to really serve as an example of commonsense forums for across the country. So in there, you'll see things like requiring photo ID, a vote in person, or to request an absentee, maintenance of voter lists, addressing some ballot-harvesting concerns that we have, prohibiting unsolicited mail ballots, different than solicited mail ballots. I think that's an important distinction.

The third pillar is really focused in on protecting free speech, and so I think it's really important that we're protecting all Americans' First Amendment rights to speak and particular solicit some political views in support of candidates, causes, organizations without fear of retribution.

And so that, for me, is kind of the crux of the bill. We're going to be bringing this forward in the weeks ahead. We're going

to have a series of hearings on the legislation, and I'd encourage you and other stakeholders to engage and participate. The goal here is to produce a piece of legislation that actually really strengthens our election system across the United States, allows enhancement of voter integrity provisions, and again, with a broader understanding and a goal in my perspective is that we put in place what are pretty commonsense voter integrity provisions. We can improve voter confidence in our elections. And again, I do believe that the empirical data continues to show, as we strengthen voter integrity provisions, we actually increase voter participation, increase voter turnout, which I think is to the net benefit of our great country's democracy.

And so I really appreciate everybody's willingness to let me come in and share my work in the committee and look forward to an ongoing dialogue and relationship with pretty much everybody in this room, but also stakeholders across the country, as we look for ways to continue to enhance and improve our election systems.

Thank you very much.

COMMISSIONER PALMER:

Thank you, Congressman. Thank you, Congressman. We really appreciate it. Are you open to a few questions?

MR. STEIL:

Happy to. Absolutely.

COMMISSIONER PALMER:

So it looks like you want me to take care of it?

CHAIRMAN MOORE:

Yes.

COMMISSIONER PALMER:

Well, is there any members that would like to ask some questions or ask a question of the Congressman?

MS. WALKER:

Thank you for being here, Congressman. Chris Walker, Jackson County Clerk, Oregon. So just one reminder when we're doing any elections bill, there is no one-size-fits-all throughout the whole country, so I think we just need to be very mindful of that, and that would be really appreciated. My state, of course, was the original vote-by-mail state, so I wanted to ask a little bit about the -- you talked about solicited versus unsolicited mail ballots, which would be a huge concern, because that's the sole way to conduct elections in Oregon. We've not had a polling place election since 1998, among other states, such as Utah, Colorado, Washington state and others who have moved to all-mail platforms.

And that is huge in the one-size-fits-all thing. I know some of the bills, although I think well-meaning and appreciated, would actually create challenges for what we already do within our state,

so I just wanted to find out a little bit more about that and what your thoughts are.

MR. STEIL:

Thank you very much. Great question. So let me dive in and maybe provide a little more clarity. So I think the federalist approach works really well, so Oregon should do what's right for Oregon. Wisconsin's going to do what's right for Wisconsin, my home state, and then we'd run 50 states across the country. I've actually learned, interestingly in this job, and many of you would already know, the diversity of how we run elections across this country is more significant than, I think, the average citizen appreciates. A state like North Dakota doesn't even have a voter roll, right? I mean, they run a completely different operation, which is very challenging to think about if you're from the State of Wisconsin and you weren't involved in understanding the federal election laws or election law writ large and think how do you run elections without that. Or in a state that runs only on mail, right, I mean some things are intuitive to you that may not be to other states.

So I think the core principle here is we keep our federalist system: no federal mandate as to how any given state operates their elections. The reference to the unsolicited ballot is I personally have a challenge to that, so if I was the state legislature

in the State of Wisconsin, I'd have my opinion on that. That does not mean I get to enforce my way on the State of Oregon. As it relates to the District of Columbia, that's a different role. I think the federal government has a different role as it relates to the District of Columbia, and that was the reference point on --

MS. WALKER:

Okay.

MR. STEIL:

-- unsolicited ballots, I don't love unsolicited ballots, but I don't think that I, as a federal legislator, have the authority to dictate how Oregon runs their elections or any other given state. I do think there is a gold standard opportunity there.

MS. WALKER:

That is much appreciated. On a side note, go Pat go soon.

MR. STEIL:

There we go. We've moved into the Jordan Love era --

MS. WALKER:

Yes.

MR. STEIL:

-- as Aaron Rodgers is moving onto the Jets, so these are big times in Wisconsin.

MS. WALKER:

Yes.

MR. SCHOELLER:

I appreciate your federalist approach. One challenge that I do have, as an elected official, is during our federal elections, when one state can continue to accept ballots mailed in after a longer period of time with another state. That, ultimately, can affect the balance in terms of who's in control in Congress during midterm elections. I don't want the federal government to necessarily dictate that, but I also have great concerns in terms of the impact of that in terms of one state to another and how it affects the outcome of our national elections.

MR. STEIL:

I share your concern, and I appreciate that feedback, and that's always kind of this tension, right, between --

MR. SCHOELLER:

Right.

MR. STEIL:

-- being federalism and a one-size-fits-all approach, but I do share your concern where states have elections that the receipt of ballots continues beyond the election date, and I think that does cause some concern. I think in some ways it causes concern for voters across the country who may not appreciate the rules and nuance of any other given state, and again, that ability to improve confidence

in voters I think is actually really important to enhance participation, so I appreciate your comment on that.

MS. SIMONS:

So I come from California, where we accept ballots past election day, and I wanted to push back a little bit on that comment you just made. There's very good reason. There are very good reasons for doing that. For one thing, it makes it much easier for voters overseas, especially military voters, to have their ballots counted. And if you insist that the ballots be received by election day, many of those ballots won't get counted.

So I'm sure, like the rest of us, you support our military, and I would hope that you would also therefore encourage, if we're going to have a national standard, it should be that the ballot is postmarked by election day but there's a reasonable period, like a week or so after which it can be received, and that would enhance voting for military and overseas voters in particular, so I would like to encourage that.

MR. STEIL:

Appreciate the feedback. So in this legislation, there's no forced requirement on any of our 50 states.

MS. SIMONS:

I was just pushing back on your comments.

MR. STEIL:

Yeah, no, understood.

CHAIRMAN MOORE:

A question here from Jim Dickson.

MR. DICKSON:

Thank you, Congressman, for your interest and your participation. I have two quick questions. What is the actual name of the bill and its number?

MR. STEIL:

I'm going to look back to Caleb Hays who's standing behind you if you know the number, but it's --

MR. HAYS:

The American Confidence in Elections Act.

MR. STEIL:

Yep.

MR. HAYS:

It was 8528 last Congress, and as Mr. Steil said, we will be introducing an updated version shortly, so within the next several weeks.

MR. STEIL:

Thank you.

MR. DICKSON:



Thank you. And my second question is, when you talk about a problem with unsolicited ballots, could you define what that means?

MR. STEIL:

Define what an unsolicited ballot is?

MR. DICKSON:

Yes.

MR. STEIL:

Whether or not the voter requested to receive a ballot by mail.

MR. DICKSON:

Okay. So in your legislation, the voter has to request a ballot by mail. The election office cannot send ballots to voters who have not solicited it. Is that the gist?

MR. STEIL:

That is accurate. Caleb Hays is the election law attorney on this, and so just because this is going to get technical, if you would like to come up, Caleb, and get in the nuance of that --

[Laughter]

MR. STEIL:

No, no, I just want to make sure we get it nuanced and accurate. I mean, top level, that's accurate, but again, it relates to election administration in Washington, D.C., so just to make

clarification here, maintaining federalist principles, I think that is the gold standard, that you don't have unsolicited ballots being mailed out. It does not mean that this legislation, if enacted as written or as reintroduced as written, but it does not mean that that forces that upon any of our 50 states. So I just want to be clear as we're talking about this, because sometimes we step away from the federalism approach. This addresses elections in D.C. If you want to comment on the nuance of that distinction because I think that is worthwhile, feel free.

MR. HAYES:

Our only mandates are in the District of Columbia.

FEMALE SPEAKER:

Period.

[Laughter]

CHAIRMAN MOORE:

Senator Kagan, do you have a question?

MS. KAGAN:

Thank you so much. Cheryl Kagan, State Senator from Maryland. The latest phrase that we hear a lot of, and I don't know if it's an ALEC talking point or whatever, is about ballot harvesting, and I wonder if you could share, either you or Caleb, talk about what you're thinking about, because sometimes one person wants to drop off grandma's, you know, ballot, too, or at a retirement

community or something being able to drop them off at the drop-off box or at the local Boards of Elections, and I just wonder if you could speak to that.

MR. STEIL:

I think the real crux here is the paid and coordinated activity, and I think that is the concern that I and many others have in states with competitive elections. There's a lot of activity around paid and coordinated activity, and I think that's right for either people to not be confident as to what's occurring as those ballots are being handed to a paid political worker versus, you know, maybe your mother who is ill and needs you to literally walk to the mailbox. I think there's some distinctions in this space, and as we go through this, this is where your feedback is very helpful, Senator, right? I mean, we want to make sure that somebody who is ill or sick is able to obviously have their ballot mailed, and I think that's appropriate and reasonable. And I think that's a substantive and clear distinction to me from a paid, organized operation to collect ballots, where whether or not that ballot's done in the confidential manner that one should be able to fill out their ballot is a distinction.

MS. KAGAN:

Just to follow-up, if I could, Mr. Chair. So totally great. I think everyone from any party and any interest would support confidential and autonomy and all that when voting, but the whole

idea of using that phrase and just the distinction, though, of paid and coordinated, just want to make sure, again, the nursing home, the community organization where no one is being paid but they're offering a convenient service, I just would want to make sure that that's not lumped in with something that may sound more nefarious to you or your colleagues.

MR. STEIL:

Appreciate that feedback, Senator.

MS. KAGAN:

Thank you. Thank you, Congressman. Thanks for being here.

MR. STEIL:

Thank you.

COMMISSIONER PALMER:

Any other questions?

COMMISSIONER PALMER:

John Fogarty.

MR. FOGARTY:

Thank you very much, and thank you, Mr. Chairman, for being here. Appreciate it. I'm John Fogarty from Chicago, Illinois, appointed by your predecessor, Congressman Davis.

And I'd like to push back a little bit on the notion that accepting ballots well after the date of the election, vote-by-mail

ballots. Well, I'd like to stand up for the fact that when you accept ballots for two weeks after an election, as we do in Illinois, there is a consequence to that, and while we're all for convenience, certainly for overseas and members of the military, when, you know, regular people, people not like us, who are watching every ballot as it comes in, but regular people see what an election result is on election night and then see, two weeks later, something has happened, where ballots have come in, and not always in circumstances that are transparent. I'm not suggesting that nefarious things happen, but just that process, in and of itself, erodes voter confidence. And that's something that is fundamental and something I very much appreciated you hearing was one of the pillars of the ACE Act.

And so, my question is what other tools do you have or what do you suggest in the ACE Act that would boost voter confidence?

MR. STEIL:

Well, maybe off the cuff, I'd look at voter ID, and so this, again, uses that as the gold standard here in the District of Columbia. We have states that have it and states that don't have it. And again, going back to your comment, Mr. Fogarty, is we improve voter confidence in the system. And again, there's some people here, right, who know every nuance of your given state or multiple states. I'd say the average voter doesn't. They don't understand

the nuance of the work and the effort that goes into conducting and operating an election. So I'd say that's a general assumption across the board.

And so then, I'd look and say where are there areas that are pretty commonsense, where you can put in place voter integrity provisions with a goal of increasing voter confidence, because again, my belief is as you improve voter confidence, you actually improve participation and turnout, which should be a mutual goal, I think, held by almost everyone.

MR. FOGARTY:

Thank you.

MR. STEIL:

Thank you.

CHAIRMAN MOORE:

I think we have time for about one more question, maybe two at the most, about five minutes left.

COMMISSIONER PALMER:

So I saw Cleta's hand up for --

MS. MITCHELL:

Thank you. Thank you, Representative, for being with us. I'm Cleta Mitchell. I serve on the Advisory Board as an appointee of the U.S. Commission on Civil Rights.

I want to just make one, quick comment. I want to thank you for Caleb Hays and Thomas Lane and Hillary and Alice. You have a wonderful staff, and they've been wonderful about working with and helping to educate volunteers and citizen activists on the weekly calls that I do, and I just want to tell you how much we appreciate their outreach and their hard work.

I could ask a lot of questions, but one thing that someone sent me this morning that the Center for Internet Security, which is a nonprofit, which is largely funded by taxpayer funds from CISA has announced they're going to develop standards for e-poll books. And when I was looking at the article, I'm thinking, well, I thought that was on our agenda to discuss that. So I would hope that one of the things, as you move forward in the bill, the hearings, and all, is to clarify that the organization, the agency of the federal government that has the responsibility and the authority to issue guidelines and that sort of things is the Election Assistance Commission and not CISA and not DHS and not CIS and that appropriate funding follow that responsibility.

But I think it's confusing to election officials and all to have private organizations announcing that they're going to issue certification standards for any kind of voting technology, and I think that that undermines public confidence in the voting process.

MR. STEIL:

Ms. Mitchell, thanks for the comment. I totally agree. Caleb Hays and the broad staff that we have, we are blessed, because he's whispering things in my ear as you're talking to me. No, but in all seriousness, we are blessed with an incredibly talented staff in the Committee on House Administration in the House, not lost on me, and not lost on you, it sounds like.

Agree with your comment in making sure we get this right. The bill does have that in there explicitly as it relates to cyber, and so, I think it's one of the things that we're going to have to continue to keep an eye on. That's not only true in elections. That's true across the board when you look at some of the cyber challenges we have. We've had that in the House of Representatives as it relates to a datalink with D.C. Health Link, because Members of Congress are on Obamacare for reasons that go back years, but that is a challenge we face as a country.

But as it relates to elections, I agree with you, and this bill would do that.

MS. MITCHELL:

Thank you.

MR. STEIL:

Thank you.

COMMISSIONER PALMER:

Mr. Cramer? Is this the last one, Mr. Moore?



CHAIRMAN MOORE:

That's it, yes.

COMMISSIONER PALMER:

All right. Mr. Cramer.

MR. STEIL:

Make it good, Mr. Cramer.

MR. CRAMER:

I'm a proud recipient of Aaron Rodgers and being a Jets fan.

[Laughter]

MR. CRAMER:

So I would say it's a very easy question. Caleb, it's good to see you again. I'm here on behalf, also, of NACo , the counties' role in election administration, and the ACE Act would love to see more of the highlight of the importance of counties with elections, because a lot of things are done at the state level, even without county input. And the local jurisdictions really care about the election administration with the security of our elections, the integrity of our elections. So with that, would love for the ACE Act to have a county perspective and maybe even a lens on that, because I know it's a lot of state issue things, especially if the state doesn't adopt the standards, funding kind of goes away. So just know that there are counties.

I represent South Carolina, with Charleston County, a beautiful place to retire and play golf, so you're always welcome. But one of the things that, as an election administrator, that I never thought when I first joined this, because I used to be on the other side of it with campaigns and elections, was the threats that come to election officials.

I have been have been threatened. I'm in a very red state. I am in a purple county, but I have been threatened in 2020 on election day. And I have a young son, another one coming on the way, and I don't want to have to go to work fearing for my security. And it's not a fabricated thing. So I would hope that any legislation, federally, would support the role of election administrators and the job we do, because yes, on the front page of the paper or on any news channel, if an election administration official does something incorrectly, yes, that should be highlighted and how we improve on those things.

But for every one of those, there are thousands that are doing their job outstanding, and we need to support those people every single day. And my staff of 19, I care about their safety. You know, we don't have bulletproof glass. We don't have a detector for knives or guns in our building, and I think about that every single day about those protections for the people that serve us. They're

public officials. They make sure that we're able to exercise our right to vote.

So my question is -- you know I'm going to end it with a question, as promised -- do you foresee emphasizing that county rule and giving the protections to election officials on the House side, because I know the Senate side, they're going to introduce something to protect election officials, so would love to get your thoughts on that, and then we can talk about Aaron Rodgers tonight, you know?

[Laughter]

MR. STEIL:

Thank you very much, Mr. Cramer, and your winters are not nearly cold enough for me to go retire.

[Laughter]

MR. CRAMER:

We get down to the 30s sometimes.

MR. STEIL:

Cross-country skiing sounds terrible down there. In a serious sense, we run our elections at the municipal level, so Wisconsin's unique in the sense that it's not a county-run operation. It's run at the clerk level, at the municipal level, so I appreciate the nuance.

And I think that's some of what's interesting, right, is that as we step back and reflect about the strength of our federalist system, every state in the United States runs their elections a little bit differently. South Carolina, it sounds like, relies heavily on the county level, and I think we have an opportunity, as we go through our hearings, which highlights what's working well and identifying where we have room for improvement, we'll be exploring what each of our 50 states do. And many of our states rely heavily on a county-driven or a more localized approach, again like Wisconsin. I think we have a real opportunity to highlight that, rather than just identify states that operate a little bit more on the state level.

As it relates to your comment on security, I couldn't agree more. I think we broadly have a challenge in our society writ large on political discourse across the spectrum, where people want to jump to language that is not helpful to actually address and solve problems. I think we see that across the board. I don't think that's held by any given political philosophy, and so, I think we have a great opportunity to do what you said, in not only, identify areas where we do see challenges, but also highlight the great work that so many of our election administrators are doing, as well as our volunteers that help run our elections across the country.

If we're wrapping up, I'll just say thanks for having me in, and I'd love for your continued engagement in this process. We're

looking to try to enhance the integrity of elections and increase voter participation, and your feedback in this process is really helpful, and so we'll be continuing to have hearings, and I'd encourage you to continue your participation, and thank you very much for having me in today.

CHAIRMAN MOORE:

Thank you so much for coming. Thank you.

[Applause]

CHAIRMAN MOORE:

I want to thank the chairman for coming, as well as the DFO officer for facilitating that lively conversation that we had here. As we ask the members of the Board, take a quick stretch. If you want to go ahead and leave the room or take a break while we're going to go into bylaws next. It's a five-minute break so we can regroup. Please be back at 10:40, please, for our bylaws conversation.

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[The Board recessed at 10:30 a.m. and reconvened at 10:40 a.m.]

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## **BYLAWS SUBCOMMITTEE REPORT AND VOTE**

CHAIRMAN MOORE:

Well, just to let you all know, you just had your break that's going to happen at 11:15, and then we'll go straight through lunch if that's okay with everybody, but it was a good break to have. We

are now going to approach the part of the agenda where we're going to be discussing bylaws, and this section will be coordinated by our secretary, Mark Ritchie, so at this, I'd like to recognize Secretary Mark Ritchie for the discussion of the Bylaw Subcommittee.

MR. RITCHIE:

Thank you, Mr. Chairman. So two amendments to the bylaws are going to be presented today, and you've gotten them by mail and e-mail correspondence for consideration and for vote. Elements of these amendments, some in full and some in part, were first discussed last year at the 2022 annual meeting. Some of you were here for that. Some of you were not. They've since been considered, altered, edited. One is still on the table, and we'll talk about that, and these are being advanced by the Bylaws Subcommittee.

I want to thank everybody on that committee. We had a multi-step process, and I feel like, in the end, we had a very strong outcome that I'm proud to propose today. These amendments were shared fully in February, and so as was reported earlier, we've met the various guidelines.

So the first of the proposed bylaw amendment, so let's just call it number one, is on the screen. This is a continuation of our discussion. It changes the executive officer position of the vice

chair to chair-elect. Upon this completion of the one-year term of chair, the chair-elect shall automatically become chair, so we know and know that process for the following term. Each year, nominations will be solicited for the offices of chair-elect and secretary. The change would go into effect for the 2024 executive officers for election.

Mr. Chairman, I want to turn this back over to you for the conduction of the discussion, consideration, and vote.

CHAIRMAN MOORE:

Okay. Thank you. No substantial amendments changes from the floor will be accepted at this meeting, but the floor will be open for debate on the proposed amendments to the bylaws before the vote. Should substantive amendments or changes be offered, a motion to recommit the bylaws to the Bylaws Committee and/or consideration of a future meeting may be in order. So the bylaws amendments can be adopted by this body by a two-thirds vote of the quorum that we have.

I will now open the floor for debate. I'll turn the questioning over to Acting General Counsel. Do you have a comment at this time?

[No response]

CHAIRMAN MOORE:

You don't? Okay. The floor is open for debate on the amendment.

MS. CARROLL:

Yeah, Jenny Carroll. I had a quick question, and this is a point of clarification, and then I may have a further question. So the proposal, as I read it in what was sent to us contains amendments to portions two through seven of the section and then continues into nominations. Are we only considering right now the initial discussion contained in two on the completion of the one-year term of the chair or the chair-elect automatically becoming chair, or are we considering the entire proposal?

The entire proposal? All right. So then I do have some questions on that. So I was unable to locate the proposed changes from last year that we debated on this, but I did review my notes and compare it to what's proposed here. It appears as if this is a repetition of proposal six that did fail at the last meeting, and there were questions, I think, raised in the discussion of proposal six about the value of having elections for each position each year in an effort to encourage more people to run and encourage turnover.

I had also raised a concern during that meeting that each position seemed like it had a specific set of roles and responsibilities and that it was certainly possible that an individual who might make a very good vice-chair in that role might not be



someone whom I would've elected as chair or voted for as chair, so I had some concerns about automatic appointment or rolling over to chair.

My concerns that I raised last year with regard to this, not encouraging more people to run and not encouraging different folks and different perspectives from joining in these important election positions and sharing responsibility for these important elected positions remain. I don't feel like they're answered by this proposal. Certainly, if there's something I'm missing in the edit, because like I said, I went on the website. I tried to locate the proposals from last year. I was unable to locate them, so I'm just going off my notes, so perhaps there's an edit I'm missing, but my reading of this is this is a repetition of what we rejected last year, so I'm not sure why it's coming back to us in the exact same form, and I'd like more information about that.

MR. RITCHIE:

We had very substantive discussion, and this was the consensus decision of the Committee, and we bring it forth for consideration of everybody. There's always tension between sort of continuity and stability and knowing where we're going, and in the case of our lives, things happening. And so, having the knowledge and having the known succession in mind was the thing that was the most important.

CHAIRMAN MOORE:

Could I entertain any more comments from people from the Bylaws Committee that may want to comment at this point?

MR. HATCH:

I was chair of the Bylaws Committee last year when we had that discussion, and I believe -- and I could be wrong -- but I believe the proposal last year was that there would be a full secession -- succession. We don't want to use secession very often in D.C. here.

[Laughter]

MR. HATCH:

There was a full succession, starting not just from chair-elect but from early on, secretary or something like that, and I believe this year's is different from last year's in that it's just the chair-elect moving onto the chair, so that would be a small distinction and would address some of your concerns that it's not just somebody just running, going through the ranks.

MS. CARROLL:

Thank you.

CHAIRMAN MOORE:

Any other comments? Jim Dickson.

MR. DICKSON:

I'd like to speak in favor of the proposal. I've been on this Board since it's inception, and I think having the continuity of the vice-chair moving up, bringing with her or him institutional memory is very important, and so, I totally support the amendment.

CHAIRMAN MOORE:

Thank you, Jim. Commissioner Hovland?

MR. HOVLAND:

Thank you. Just to add to what Ricky said here, again, with our rotation, I was DFO for much of the year, and my recollection -- and, Ricky, please correct this -- but this was very much a compromised position from last year's conversation. As you noted, last year, there would only be one election each year for secretary, and then that would rotate all the way through; whereas, this would be for two slots each year, with only the chair-elect moving up. And so, with only three Executive Board positions, it was sort of finding compromise between last year's conversation, but still maintaining that continuity. Is that your recollection as well?

[No response]

MR. HOVLAND:

Thank you.

CHAIRMAN MOORE:

Are there any more comments about amendment number one?

MS. CARROLL:

Can I make one more comment?

CHAIRMAN MOORE:

Yes, ma'am.

MS. CARROLL:

Sorry. So I appreciate the clarification, and I understand that it's only one position moving up, and I understand the balance that has to be struck between continuity. I remain a bit concerned that, again, this is not encouraging different folks to come into positions, particularly since it seems like, going back through our history, often the same folks repeat in positions.

I think the value of this body is there are a lot of us with a lot of different perspectives. I think that is being undervalued if we're just promoting continuity for the sake of continuity. If we're worried about continuity, one possibility would be longer terms of office. I know that was something that was discussed briefly last year, as per my notes, so I don't know if there's other things to think about.

You know, obviously, there is, I agree, some value to having folks in office and seeing how things play out over a period of time, but I just worry that we're overvaluing continuity for the sake of diversity and opportunities for participation, particularly since my own experience has been, it is difficult to participate in this Board, and it makes me wonder if we are serving the responsibilities of

those we're representing here if we don't have opportunities to serve.

CHAIRMAN MOORE:

Thank you. Any further comments before we go to a vote?

[No response]

CHAIRMAN MOORE:

I will now entertain a motion to take a vote to adopt amendment number one, proposed bylaw amendment. Is there a mover of the motion?

MR. DICKSON:

So move.

CHAIRMAN MOORE:

Moved by Jim Dickson. Is there a second?

MR. STARK:

Second.

CHAIRMAN MOORE:

Phil Stark second. A second motion has been filed. Are there any objections to -- there's move to a second that this body vote to adopt the proposed bylaws number one. When you are called, please cast your vote, stating aye or nay or abstain. A two-thirds majority of those voting in person and by proxy is required to approve the bylaws amendment. The roll call will now take place.

MR. RITCHIE:

Sara, do you have the complete list? Could you call that for us?

MS. BRADY:

Yep. Okay. So I am going to read members' names and --

MR. BRATCHER:

Is questioning over?

CHAIRMAN MOORE:

Yeah, I called for the final. Do you have any more comments?

MR. BRATCHER:

I have another comment.

CHAIRMAN MOORE:

Okay. Are we allowed to take another question after the motion's been voted?

Go ahead. Go ahead.

MR. BRATCHER:

From what I've read of the amendment, it's just nomenclature change, right? We added a position and the name of a position and got rid of the vice, right?

CHAIRMAN MOORE:

Yeah, the vice-chairs would now be called the chair-elect. That's the --

MR. BRATCHER:

I mean that's the substance of this?

CHAIRMAN MOORE:

That's one of the big distinctions of this, yeah. Okay. We're going to go ahead with the roll call. Thank you.

MS. CARROLL:

Although, to be clear, that's not all this amendment does.

CHAIRMAN MOORE:

I didn't say it was all. I just said --

MS. CARROLL:

Okay. But I just want to be clear.

CHAIRMAN MOORE:

He's asking whether --

MS. CARROLL:

It's not all it does.

CHAIRMAN MOORE:

No, it's not all it does. Not at all. Roll call, please.

MS. BRADY:

So I will call members' names. If you're serving as proxy and I can make a notation, you are eligible to vote then, as well.

MS. BRADY:

Kyle Ardoin.

MS. WAY:

Aye.

MS. BRADY:

Sarah Ball Johnson.

MS. LAMONE:

Aye.

MS. BRADY:

Elliot Berke.

MR. BERKE:

Aye.

MS. BRADY:

Kevin Bratcher.

MR. BRATCHER:

Aye.

MS. BRADY:

Jenny Carroll.

MS. CARROLL:

Nay.

MS. BRADY:

Ryan Cowley.

(No response)

MS. BRADY:

Isaac Cramer.

MR. CRAMER:

Aye.



MS. BRADY:

James Dickson.

MR. DICKSON:

Aye.

MS. BRADY:

Thomas Ferrarese.

MR. FERRARESE:

Aye.

MS. BRADY:

I apologize if I mispronounce anyone's name.

Eric Fey.

MR. FEY:

Aye.

MS. BRADY:

John Fogarty.

MR. FOGARTY:

Aye.

MS. BRADY:

Joseph Gloria.

MR. Gloria:

Aye.

MS. BRADY:

Don Gray.

(No response)

MS. BRADY:

Ricky Hatch.

MR. HATCH:

Aye.

MS. BRADY:

Robert Heberle.

MR. HEBERLE:

Abstain.

MS. BRADY:

Chris Herren.

(No response)

MS. BRADY:

Liz Howard.

MR. FEY:

Aye.

MS. BRADY:

Hannah Ibanez.

MS. IBANEZ:

Nay.

MS. BRADY:

Keith Ingram.

MR. INGRAM:

Aye.

MS. BRADY:

Cheryl Kagan.

MS. KAGAN:

Aye.

MS. BRADY:

Linda Lamone.

MS. LAMONE:

Aye.

MS. BRADY:

Dean Logan.

MR. GLORIA:

Aye. Joseph Gloria, proxy.

MS. BRADY:

Cleta Mitchell.

MS. MITCHELL:

Aye.

MS. BRADY:

Greg Moore.

MR. MOORE:

Aye.

MS. BRADY:

Benjamin Nadolsky.

MS. IBANEZ:

Yea.

MS. BRADY:

Anthony Penry.

(No response)

MS. BRADY:

Mark Ritchie.

MR. RITCHIE:

Aye.

MS. BRADY:

Shane Shoeller.

MR. SHOELLER:

Aye.

MS. BRADY:

Barbara Simons.

MS. SIMONS:

Aye.

MS. BRADY:

Philip Stark.

MR. STARK:

Aye.

MS. BRADY:

Rick Stream.

(No response)

MS. BRADY:

Christine Walker.

MS. WALKER:

Aye.

MS. BRADY:

Tahesha Way.

MS. WAY:

Aye.

MS. BRADY:

Scott Wiedmann.

MR. WIEDMANN:

Aye.

MS. BRADY:

So with that, we have 26 ayes, and the two-thirds majority would have been 21 of the members and proxies.

CHAIRMAN MOORE:

Let the record reflect, we have 26 ayes, 2 no's, and one abstention. Is that correct?

[No response]

CHAIRMAN MOORE:

All right. Thank you. The chair recognizes Secretary Mark Ritchie for the second proposal amendment.

MR. RITCHIE:

Thank you very much, Chair.

CHAIRMAN MOORE:

I'm sorry. The amendment is adopted first. We will now go to the second amendment. Thank you.

MR. RITCHIE:

This proposed bylaw amendment we're going to call number two, in summary, it renames the standing Board of Advisors Subcommittee, the Voting System Standards Committee, the Volunteer Voting Systems Guidelines Committee to align with the terminology now used at the EAC. It also replaces member representatives on the Subcommittee from the former NACRC and IACREOT with a member representative from the International Association of Government Officials. A paragraph is also added, directing the chair to appoint remaining member representatives to the Committee with technical expertise in accessibility and usability, election law, including voting rights and voter enfranchisement, cybersecurity, election verification, and election audits and election technology.

Turning it back to you, Mr. Chairman.

CHAIRMAN MOORE:

Thank you, Secretary Ritchie. We will now open the floor for debate on this amendment number two. Is there discussion?

MS. JOINER:

Excuse me, Chair.

CHAIRMAN MOORE:

Yes, please.

MS. JOINER:

Just a point of parliamentary clarification here. I think an order would be a motion to entertain this from the table, because this was tabled during the last meeting, so I would advise that you entertain a motion to take from the table the proposed bylaw amendment number two.

CHAIRMAN MOORE:

Thank you for that, Counsel. I will take your recommendation, and we will now open the floor for debate. Are we debating putting this back on, or are we just basically announcing?

MS. JOINER:

No, to get into the parliamentary weeds, first I would advise you to call for a motion to take from the table. That motion should be seconded, ayes and nays, and then you can take a motion to open for debate.

CHAIRMAN MOORE:

There we go. We will now take a motion to accept this amendment from the table, since it was tabled at our previous meeting. Is there a motion to do that?

MR. RITCHIE:

So moved, Mr. Chairman.

MR. STARK:

Second.

CHAIRMAN MOORE:

So moved by Mr. Ritchie. Second by Phil Stark. We are now open for discussion of this amendment.

MS. JOINER:

Again, apologies. You should now call for a voice vote on that.

CHAIRMAN MOORE:

I'm sorry. A voice vote.

MS. JOINER:

Ayes or nays.

CHAIRMAN MOORE:

Ayes or nays. Thank you so much. All those in favor, say aye?

[Chorus of ayes]

CHAIRMAN MOORE:

Opposed?



[No response]

CHAIRMAN MOORE:

Thank you.

MS. JOINER:

Thank you.

CHAIRMAN MOORE:

We are now able to have a discussion. Thank you,  
Counselor. Yes, Jim Dickson?

MR. DICKSON:

Yes. I actually like the change in the nomenclature, but my question is the previous committee had representation of people with disabilities on it. Does this amendment continue that, or is the selection of representatives for the disabled community at the discretion of some individual?

CHAIRMAN MOORE:

Mark, did you want to answer that?

MR. RITCHIE:

Good question.

CHAIRMAN MOORE:

That is a good question. Counsel, can I bug you one more time on this one? My understanding was that it was adding.

Who was the chair? You were the chair at the time of this.  
Do you remember?

MR. HATCH:

Yeah, I believe it was simply to have that member fall in under the accessibility and usability section, so not to add. No, I didn't feel that it was to add an additional member, but for the disabled community to have that representation under a small bullet, little I.

CHAIRMAN MOORE:

Yes, Sara, please.

MS. BRADY:

So, reviewing the proposed amendments, it does indicate here the chair shall appoint remaining members of the Committee, and these members shall include at least one member with technical expertise and experience in the areas listed in the subsection, and the subsection does include accessibility and usability as one of the named.

MR. DICKSON:

Yeah.

MS. BRADY:

Yep.

CHAIRMAN MOORE:

Yeah, go ahead, Jim.

MR. DICKSON:

I have a concern about lumping accessibility with usability. Sometimes those two functions can fit well, but we have had experience on the Committee where usability was defined in a way that it conflicted with accessibility, so I'm troubled by having one person wearing two hats.

CHAIRMAN MOORE:

I want to have Phil Stark address that issue from the Committee.

MR. STARK:

Oh, sorry. Microphone. So this is Section (b)(2)(c). It says at least one member, excluding the Chair, the Voluntary Voting System Guidelines Committee shall represent a disability advocacy group. It's there. It's a carveout.

MR. DICKSON:

Oh, okay. Thank you, Phil. Then I have no problem.

CHAIRMAN MOORE:

Thank you. Any additional questions on amendment number two?

[No response]

CHAIRMAN MOORE:

Seeing none, I'll now entertain a motion to take a vote to adopt amendment number two. Is there a motion?

MS. LAMONE:

So moved.

CHAIRMAN MOORE:

So moved by Linda Lamone. Is there a second?

MR. FERRARESE:

Second, Ferrarese.

CHAIRMAN MOORE:

Second, Ferrarese. The motion has been moved and second. We'll now take a vote. All those in favor, say aye.

[Chorus of ayes]

CHAIRMAN MOORE:

Opposed?

[No response]

CHAIRMAN MOORE:

Abstentions?

[No response]

CHAIRMAN MOORE:

Amendment number two is now adopted. Thank you.

MS. JOINER:

Apologies, Chair. Sorry. Me again with parliamentary procedure. I believe we need to take a roll call vote on this.

CHAIRMAN MOORE:

We do need to take a roll call vote?

MS. JOINER:

Yes. Thank you.

CHAIRMAN MOORE:

If you can make a roll call vote happen one more time, that'll  
be fine.

MS. BRADY:

One more time.

CHAIRMAN MOORE:

Thank you.

MS. BRADY:

Kyle Ardoin.

MS. WAY:

Aye.

MS. BRADY:

Sarah Ball Johnson.

MS. LAMONE:

Aye.

MS. BRADY:

Elliot Berke.

MR. BERKE:

Aye.

MS. BRADY:

Kevin Bratcher.

MR. BRATCHER:

Aye.

MS. BRADY:

Jenny Carroll.

MS. CARROLL:

Aye.

MS. BRADY:

Ryan Cowley.

(No response)

MS. BRADY:

Isaac Cramer.

MR. CRAMER:

Aye.

MS. BRADY:

James Dickson.

MR. DICKSON:

Aye.

MS. BRADY:

Thomas Ferrarese.

MR. FERRARESE:

Aye.

MS. BRADY:

Eric Fey.

MR. FEY:

Aye.

MS. BRADY:

John Fogarty.

MR. FOGARTY:

Aye.

MS. BRADY:

Joseph Gloria.

MR. Gloria:

Aye.

MS. BRADY:

Don Gray.

(No response)

MS. BRADY:

Ricky Hatch.

MR. HATCH:

Aye.

MS. BRADY:

Robert Heberle.

MR. HEBERLE:

Aye.

MS. BRADY:

Chris Herren.

(No response)

MS. BRADY:

Liz Howard.

MR. FEY:

Aye.

MS. BRADY:

Hannah Ibanez.

MS. IBANEZ:

Yea.

MS. BRADY:

Keith Ingram.

MR. INGRAM:

Aye.

MS. BRADY:

Cheryl Kagan.

MS. KAGAN:

Aye.

MS. BRADY:

Linda Lamone.

MS. LAMONE:

Aye.

MS. BRADY:

Dean Logan.

MR. GLORIA:



Aye.

MS. BRADY:

Cleta Mitchell.

MS. MITCHELL:

Aye.

MS. BRADY:

Gregory Moore.

MR. MOORE:

Aye.

MS. BRADY:

Benjamin Nadolsky.

MS. IBANEZ:

Yea.

MS. BRADY:

Anthony Penry.

(No response)

MS. BRADY:

Mark Ritchie.

MR. RITCHIE:

Aye.

MS. BRADY:

Shane Shoeller.

MR. SHOELLER:

Aye.

MS. BRADY:

Barbara Simons.

MS. SIMONS:

Aye.

MS. BRADY:

Philip Stark.

MR. STARK:

Aye.

MS. BRADY:

Rick Stream.

(No response)

MS. BRADY:

Christine Walker.

MS. WALKER:

Aye.

MS. BRADY:

Tahesha Way.

MS. WAY:

Aye.

MS. BRADY:

Scott Wiedmann.

MR. WIEDMANN:

Aye.

MS. BRADY:

I show 29 ayes. Surpasses the two-thirds present in person and proxy.

CHAIRMAN MOORE:

Having received the two-thirds votes required for adoption, the amendment is now adopted by the Board of Advisors. Is there another report from the Secretary?

MR. RITCHIE:

No, thank you, Mr. Chairman.

CHAIRMAN MOORE:

Thank you for that report, and thank you to the members of the Bylaws Committee for your work on this important change to our bylaws.

The Chair now recognizes Vice-Chair Ricky Hatch for a report on the Executive Director Search Committee.

## **EXECUTIVE DIRECTOR SEARCH SUBCOMMITTEE REPORT**

MR. HATCH:

Thank you, Mr. Chair. I think it might enliven our meeting a little bit if, in all future votes, we say aye like a pirate and yea like an old barrister.

[Laughter]

MR. HATCH:

All those in favor?

[Chorus of ayes]

MR. HATCH:

Okay. This is a report on the Executive Search for the EAC Executive Director, and I want to give a huge thank you for all the work done by those on the Candidate Evaluation Committee. Those are Keith Ingram, Dean Logan, Chris Walker, Tahesha Way, Clea Mitchell, Sarah Johnson, Shane Schoeller, Alisoun McLaughlin, and of course, Mark Robbins, as well.

We had 23 applicants who applied for this position. Committee members reviewed each of the 23 résumés and applications, along with sometimes voluminous supporting documentation. It was not a quick process, nor was it light work. Our instructions were to provide a list of candidates of which we approved, so kind of like approval voting, and not a ranking of candidates, so not like rank choice voting.

Each candidate was evaluated based on the following characteristics, with the most important characteristics being listed first. First was experience with the federal paperwork and the federal system, managing people, managing programs, managing budgets, communication skills, election administration experience, political savviness, problem-solving skills, and innovation.

So in September, we met virtually to discuss each candidate. About ten of the applicants clearly did not rate highly, and they were excluded fairly quickly. For the remaining 13, we had fairly extensive discussions about their skills, experience, and characteristics, especially in light of the unique keys to success in leading the administrative and management functions of the EAC. Mark Robbins was extremely valuable in sharing with us his expertise and historical perspective of the unique demands placed on this position.

In the end, we provided the names of nine candidates who we felt merited further consideration by the EAC. I tried to come up with some kind of joke to say about Steve Frid being our one and only candidate that we brought forward, but I just couldn't think of anything that was funny, so sorry, Steven.

[Laughter]

MR. HATCH:

And that's my report, Mr. Chair.

CHAIRMAN MOORE:

Thank you very much, Mr. Vice-Chair. And before we turn it over to our new executive director, I would like to have the Board of Advisors officially thank the former executive director, Mark Robbins. I believe he came out of retirement to be the acting executive director for several years, after several years of

retirement, and so even though he's not here -- I understand he's in California, enjoying life without this job, but can we give him a round of applause?

[Applause]

## **EAC UPDATE, VVSG, AND ESTEP PRESENTATIONS**

CHAIRMAN MOORE:

And now we'll turn it over to Executive Director Frid.

MR. FRID:

Hi. Good morning. Thank you so much for having me and allowing me to speak today. So I am Steven Frid. I am the executive director of the EAC. I'm a 15-year federal government employee. I started my career at the Office of Personnel Management, eventually moved onto the Secret Service, and I come to the EAC by way of the Department of Education.

As I'm sure you're aware, the EAC is the only federal agency focused just on election administration. Our mission is to help election officials improve the administration of elections and to help Americans vote. The Board of Advisors is a key part of helping us fulfill our mission.

Now, for a few EAC highlights from 2022, which was a great year of growth and success for the agency. The security of election staff and the integrity of our elections were in question. But despite

all, our elections ran safely and securely, thanks to election officials across the country.

To help with poll worker recruitment efforts, we held National Poll Worker Recruitment Day and Help America Vote Day. On Help America Vote Day alone, 41 states participated on social media. The toolkit and graphics are still available at [HelpAmericaVote.gov](https://www.HelpAmericaVote.gov).

In 2022, we also started holding in-person meetings again, including our first public hearing at our new D.C. office. We celebrated 20 years of the Help America Vote Act in October. And we achieved major milestones with the implementation of the Voluntary Voting System Guidelines 2.0, accrediting two voting system test labs to test voting systems to VVSG 2.0.

This is clearly an exciting time for the agency, and I'll dive deeper into some of the work from the last year in today's presentation. This QR code will take you to the EAC's annual report, and you will also have a QR code for the annual report in your folder of Board member materials. I hope you can take some time to read that: the in-depth work of our agency.

We are looking to do some big things in this fiscal year. Our overall agency funding is \$28 million. Our general operating budget is 37.8% more than it was in FY2022. You can see a history of EAC funding since fiscal year 2010 right on this chart. The

increase in funding will help the EAC expand the resources available to election officials.

Now, here's an overview of some of EAC's top priorities, each of which I'll touch on today. We've made significant strides toward achieving these goals. First, I'll discuss our progress toward VVSG 2.0. Next, I'll explain how we're continuing to develop the ESTEP program. Then, I'll cover the 2022 EAVS, or Election Administration and Voting Survey, which many of you may be familiar with from filling out that information and submitting it earlier this year. After that, I'll highlight how the EAC is distributing \$75 million in HAVA election security grants. And finally, I'll update you on the EAC's latest resources for election officials.

As you may know, the Voluntary Voting System Guidelines, or VVSG, are a set of specifications and requirements against which voting systems can be tested to determine if the systems meet required standards. These are completely voluntary; however, some states do require adherence to VVSG by law. The VVSG started with version 1.0, and the EAC recently implemented higher standards for voting systems, known as the VVSG 2.0.

Our director of testing and certification will go into more detail about the VVSG 2.0 and where we are now, but I know this is an important topic as we work towards the deprecation of previous standards this fall. During the implementation of VVSG 2.0, no



voting systems will be decertified by the EAC. You will be able to continue using systems that have been certified to VVSG 1.0 and 1.1. Current systems do not need to be replaced unless otherwise dictated by individual state statute.

We heard the need for support and communicating about VVSG 2.0 and the deprecation of standards. In response, the EAC has released materials to assist election officials with communications about VVSG 2.0 and voting systems. Materials will help reassure the public that our voting systems are secure and accurate. For more information, visit the website [EAC.gov/election officials](https://www.eac.gov/election-officials). Again, John Panek will talk more about this later today.

Now what is ESTEP? ESTEP stands for Election Supporting Technology Evaluation Program. Through ESTEP, we aim to produce election technology standards similar to VVSG, create draft standards that can be used by Voting System Testing Laboratories, or VSTLs, create program manuals, and administer and report results of pilot programs. Jay Phelps, here today, the Director of the ESTEP program, will talk more about this new program for the EAC, including the progress and next steps for this priority area.

The EAVS goes out to election officials in 50 states, the District of Columbia, and five U.S. territories: American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S.

Virgin Islands. The information we collect from this survey creates the nation's most comprehensive report on election administration, registration, and voting. It has national-, state-, and county-level data.

The EAVS report supports data-driven policy solutions to improve areas, such as military and overseas voting, voting accessibility, mail-in voting, registration, and poll worker recruitment. At the EAC, we use the EAVS to learn more about timely and important election administration issues, but we also hope this is also a valuable resource for election officials.

The EAC is continually looking for ways to show the data and improve the distribution of this valuable research. As I mentioned earlier, the 2022 EAVS report will be published in June.

With the FY2023 budget, Congress appropriated \$75 million in election security grants. The EAC's grants team not only works to distribute those funds but also to support election officials with reporting requirements and spending questions. In 2018, for the first time since 2010, EAC received grant funds under the authority of Section 101 to provide grants to states with an emphasis on election security.

You can see here now that grant funding has been allocated over the years. The 2023 funds are consistent with 2022, and it is good to see dedicated funding being provided in an off year, when

election officials are planning for federal elections in the following year. As always, the EAC grant staff are available to answer questions you may have about the new grants and previous HAVA grants. The Election Security Grant narratives, budgets, and reports can be found at [EAC.gov](http://EAC.gov).

We're also excited that, for the first time since 2010, we received funding for the HAVA College Poll Worker Grant Program. The college program grants are authorized under HAVA to encourage student participation as poll workers or assistance, to foster student interest in the elections process, and to encourage state and local governments to use students as poll workers. The grants also aim to relieve poll worker shortages. \$1 million in the EAC's fiscal year 2023 budget are dedicated towards this grant program. We'll release more information about how to apply for this grant program soon.

Our clearinghouse team is always coming out with new resources for election officials. Here are just some examples of the material we currently have available. You can view all of our latest resources by going to this URL and using this QR code. Tomorrow, EAC senior election subject matter experts Ben Jackson and Adam Podowitz -Thomas will cover these in more details. We always welcome your feedback, and you can e-mail [clearinghouse@EAC.gov](mailto:clearinghouse@EAC.gov) if you have any ideas for new resources.

Lastly, that's my information there. Please feel free to contact me at any time, and I thank you, once again, for having me today.

CHAIRMAN MOORE:

Thank you for your report.

[Applause]

MR. FRID:

Next, I'll turn it over to Jay Phelps to discuss more on the ESTEP program.

MR. PHELPS:

Thank you, Steve. I really appreciate it. And good morning, everybody. My name is Jay Phelps, and it's so good to be here with you, and thank you for your time and commitment to this group.

Just a little bit about myself, I've been with the agency now for about seven months. I was a local county clerk in Columbus, Indiana, and then after that, I served as the Director of Election Modernization for the Secretary of State in the State of Indiana, so I'm really excited to be in this role as the director of the Election Supporting Technology Evaluation Program. It is a mouthful. My wife always says, hey, can you tell me what you do again? --

[Laughter]

MR. PHELPS:

-- what's your title? when she's tried to explain it to folks, and what an important task and effort that's ahead of us.

So what is ESTEP? As I mentioned, and as Steve mentioned, it stands for the Election Supporting Technology Evaluation Program, where we evaluate the security and accessibility of our election supported technology, such as electronic pollbooks, voter registration systems, blank ballot delivery systems, and election night reporting systems, just to name a few, and to create standards and put best practices in place for those technologies.

And so, kind of the process of the ESTEP process, the first is to create a set of requirements for the two voting system technical laboratories to be able to test to, and that's certainly the case. I'll get into our electronic pollbook pilot here shortly, but that's kind of the first phase of our program, and then to create file artifacts, such as vendor agreements and different contracts to work with them, and then of course, checking with the VSTLS for testing availability and for them to work with them to create a testing matrix as the manufacturers go through the process.

And then it's obviously to bring you into the fold and work and update our stakeholders on the pilot. I would just say that the electronic pollbook requirements, we work with NIST, National Institute of Standards and Technology, now for about a year, so

before my time. The EPB requirements were being worked on with our staff before I was brought on board, so I know there's been different stakeholder feedback and different advisory boards of the EAC that's provided feedback for those requirements, so I just want to thank any of those that have provided and again, it's a still working document, but we, of course, want to get the National Association of Secretaries of State, the National Association of Elected Directors, and our advisory boards to incorporate feedback as we continue to go through this pilot and testing phase in the process.

And then once we went through the pilots and, you know, talked with the labs, talked with the manufacturers, talked with the states, if the state has an in-house, I should say, not homegrown -- that's another kind of word you stay away from -- but an in-house system, kind of what went really well during testing and what needs extra work or what may not fit into our future best practices or formal certification program. And then the Commissioners, of course, will take all of that data and feedback and recommend a next step. Is that a formal program for these election supporting technologies, or do we do additional pilot work?

And so, why electronic pollbooks? Why do we pilot them first? As you could see from the data from the 2020 EVS, nearly 39 states -- I think we're closer to 40 or 41 now -- use electronic

pollbooks. Nearly 2,000 jurisdictions throughout our country utilize EPBs, and a number of states have certification requirements in place, in their general assemblies and in their codes when it comes to testing certification, so they're really vital that we be a resource to states and develop a set of requirements that they can be able to utilize and make their jobs easier as a result.

And then just kind of an overview of our EPB requirements. I know out of all the information you received for this conference, you did get a draft copy of the requirements, so just a quick, for security requirements, we talk about access control, physical security measures, system integrity, network and telecommunication security, software design and architecture, logging, supply chain and risk management, and then with accessibility and usability, we get into core functionality requirements for EPB supporting audio and supporting additional languages.

And so, kind of where we are in the process currently with our EPB pilot, so as I mentioned, you know, we're bringing manufacturers in. We do have five that have participated in our pilot. Those were basically chosen on a first-come, first-served basis, so we basically gave the manufacturers a month to review our requirements and let them know that there was going to be a participant agreement coming. And we sent out that participant

agreement, and the most equitable way was kind of a first-come, first-served basis, and within a matter of 24 hours, we received four. Our goal was four manufacturers that wanted to participate. There were two that were kind of on the fence but didn't necessarily show any interest, and the one ended up coming back later and asking if they could still test one of their brand-new products, and we had some funding, so I said absolutely. We would love to have you. The more data the better.

So those five EPB manufacturers are ES&S, KNOWiNK, Tenex Solutions, Robis, and Votec. And we tried to, of course, divide them up as evenly as possible Pro V&V and SLI Compliance. ES&S has completed testing. They have reviewed the lab reports, and I was just given a copy of that, so once I travel back home, I will definitely dive into that and get into the process. I know Tenex Solutions has a copy of theirs, so they're completed with testing as well, and I should receive a copy with that next week. And then KNOWiNK isn't far behind. So Votec and Robis is actually in the process of scheduling testing currently, and so we're excited about that.

I will say, too, I did hear from the State of North Carolina. They have an in-house EPB system, and so we really want to measure that system as well, and they are going to participate in our pilot, have verbally agreed. They're just waiting on the actual



participant agreement to be signed. I also reached out to Colorado, Michigan, and a few others, so we could have another one also join.

So what do we do once the pilot has concluded? As I mentioned, we're going to review all the lab reports, gather manufacturer and VSTL feedback and then, of course, continue to engage with folks like yourself and the different organizations to see what you believe should be any best practice or a full program as we continue to move forward to make this more a mature program.

I'm planning on drafting, of course, a comprehensive pilot of all the findings. I'm trying to be as simplistic as possible for our stakeholders, and during that time, of course, maybe issue some one-pagers for our state officials, so whenever they get questions, it's a little bit easier to dissect that information for them. And then the Commissioners will determine if a formal EPB certification program is warranted.

And then, the question has kind of come up, so we started to turn our attention to voter registration systems and the next process to development requirements for. I understand that's a massive undertaking, and based upon the feedback last week at the Standards Board, I think, you know, there were some great questions. We had some wonderful feedback, and so we're trying

to kind of debate on what -- there's no formal process on what we look at next. I've heard some folks say, what about ballot delivery. So I'd love to hear your feedback on that, you know, if you have something that you think, hey, this needs to be next. This is crucial and here's why. But we want to keep the ball rolling with this program. We don't want to sit idle, and that's really important to us.

And I'll be happy to answer any questions. Also, too, like, I want to continue to, you know, stay in touch with all of you. The more feedback, the better, especially in writing, so I can include it in our pilot report, so if you contact ESTEP at EAC.gov, we will definitely reach out, continue that open line of communication.

But I know some of you have questions, so I'd love to answer those.

CHAIRMAN MOORE:

Okay. Let me ask a question. I think we're going to do questions at the end. Does that make sense? After John's presentation?

Okay. All right. That's fine. Phil, go ahead, and then we'll take a couple.

MR. STARK:

Thanks. So several questions. So, first of all, what was the process of developing the testing assertions? Is there a place we can read the testing assertions? I assume the TGDC wasn't

involved or we would've heard about it. And is EAC also contemplating developing best practices around the use of EPBs, including things like having paper backups and so on?

MR. PHELPS:

Yeah, that's an excellent question. So as far as the actual requirements, if you're referring to, I believe you were all sent a copy in your packets. I know it's a lot of information to dissect. It's a 40-page requirement report, but by no means are they --

[Chorus of no's ]

MR. PHELPS:

Nobody? Okay. All right. Sorry. There's some confusion, and it might've been buried in, but I was talking with Sara.

CHAIRMAN MOORE:

I believe there's --

MR. PHELPS:

Yeah.

CHAIRMAN MOORE:

-- a link and --

MR. PHELPS:

There is on, yeah, the QR code, so maybe that was --

CHAIRMAN MOORE:

That's what it was. If you didn't get a hard copy, it's --

MR. PHELPS:

And that's okay. I mean, again, we still have plenty of time. I mean, this is, by no way, a finalist draft. We want your feedback and comments, and so please review.

And then to your second question about best practices, yes. I know during the TGDC when I presented a few months ago, Shane had a question about, you know, what do you do about backups, right, as a county clerk, and I remember printing thousands of pages and wasting so much of that value, so what are the best practices about, you know, battery backups and things of that nature. What way should we look to maybe if there was a natural disaster to recommend that for election officials, so that's a great question, and I think we plan on doing that.

CHAIRMAN MOORE:

Okay. Go ahead, yes. And then we'll go to Kevin.

MS. WALKER:

Chris Walker, Jackson County, Oregon. Great subject, by the way, and I'm glad to see it happening. Barbara, thank you for sending the verified votings. I was looking through that. I kind of would like to see a separation, though, because if you have looked at this document that was sent out, it was based on electronic pollbooks. I'm from Oregon, we're 100% vote by mail, but they kind of group that into the in-house electronic pollbooks, which is kind of defeating to me, because I think it should be a separate category

for 100% vote-by-mail states, because for the matter of this, it looks like these systems are being vetted, but they're not, because this is built into our election management system through our voter registration election management, so they're completely separate functionalities. I understand why it was grouped that way.

MS. SIMONS:

Well, if you've got suggestions for that, send them to me.

MS. WALKER:

Absolutely. So I appreciate that. So the other item that I would like to see come up on this as we're talking about voting system guidelines would be for electronic ballot marking devices, delivery, et cetera. We are one of the counties within Oregon that have been using a voting app for UOCAVA, military and overseas voters to allow options. I would like to see that expanded to the disability community, first responders, those experiencing natural disasters, but I would also like to see some guidelines based on the EAC put in place that they have the option to also get these certifications through that, so that would be where I would like to see an expansion of that.

I know it's controversial, but if we have options, viable options for this community, I would like to see us be proactive in that. You know, the world is wide open. Creativity, people with great ideas, I think a lot of those are being shot down right now, just

for the guise of, hey, it's not secure, but I think we need to challenge the cyber community, the academic community. Their opinions are very valued, but as an elections administrator, if I have a tool that I know I can provide to a person serving our country or a person with a disability, then I 100% want to be able to utilize that so they can exercise their right to vote. Again, it's about options, and there is no one size fits all.

MR. PHELPS:

Thank you. Excellent.

CHAIRMAN MOORE:

Kevin Bratcher, do you still have a question?

MR. BRATCHER:

Yeah, just in Kentucky, our State Board of Elections are creating their own ePollbook. Have you heard of that around other states or whatnot?

MR. PHELPS:

Yes. Yeah, there are -- excuse me. Sorry. There are other states that have their own in-house developed EPB. I know Wisconsin, Colorado, North Carolina are among others, so you know, as you are building up your program, it may be worth your while to reach out to them and kind of get some of their feedback. I know North Carolina, we have been talking with them frequently because they're going to participate. They definitely have some

trial and error with their system, so they would be a great resource to reach out to. Michigan is another one that would be great to reach out to as well. Thank you.

CHAIRMAN MOORE:

Yeah, we have Barbara. Go ahead. I saw your hand, and then we'll get to --

MS. SIMONS:

So, just a couple of mundane questions. Can we get the slides, or what are these? Yes, we can?

MR. PHELPS:

Yeah.

MS. SIMONS:

And also, can we share this information with people not on the Board of Advisors, like security experts and people like that?

MR. PHELPS:

Yes, I don't see a reason why we can't. Absolutely. The more the merrier.

MS. SIMONS:

And they can give you feedback?

MR. PHELPS:

Sure. Please.

MS. SIMONS:

Great. Thank you.

CHAIRMAN MOORE:

Barbara, real quick, could you just explain what you sent around to everybody today as well?

MS. SIMONS:

Oh, what I sent around was a product of Verified Voting. It's a map of the United States showing the states and, I believe, county-level use of pollbooks. I'm getting feedback from people, suggestions for correcting things or making things clearer, and please send me your feedback, because we want to make it as accurate and clear as possible, so you should have my e-mail address on the list, and anyway, please send me feedback.

CHAIRMAN MOORE:

Okay. Is there one more question, and then we're going to get to the next --

Oh, I'm sorry. Let's do it right now.

MS. BRADY:

I just wanted to point out for folks as well, in the Dropbox link that was shared, there is a copy of the electronic pollbooks master requirements draft, so if folks are looking to reference that, just send to that Dropbox there. If you have any issues accessing, just let me know. Thank you.

CHAIRMAN MOORE:



Okay. Thank you. Thank you. All right. I'm going to get to Jim. I think it was Jenny, then Jim. Go ahead.

MS. CARROLL:

Well, I think it was Jim and then me, but --

CHAIRMAN MOORE:

Okay.

MS. CARROLL:

Go ahead, Jim.

MR. DICKSON:

Jim Dickson. On the ESTEP, is that where the question of making mail-in accessible, secure, and easy to use will be addressed, or is -- if it's not there, where is that question going to be addressed?

MR. PHELPS:

Yeah, it can be. Absolutely. I think, you know, as we pilot, you know, the other ballot delivery systems, but I think, also, too, it could be a subject-matter-expert lane that develop our best practices and methodologies as well, so I think there's a couple of different stakeholder engagements, you know, within our divisions that we could partner on that with.

MR. DICKSON:

Thank you.

CHAIRMAN MOORE:

Okay. Jenny.

MS. CARROLL:

Yeah, so I have some kind of brief, logistical questions, much like Barbara. So first of all, I noted in the draft you sent around that one of the tasks that this is supposed to perform is to instruct poll workers on infrequent tasks, and I didn't see a lot of information about how the ePollbook would be searchable and what training would occur for poll workers at the state and local levels, to make sure that they were able to actually search the pollbook with regard to those instructions for infrequent tasks. Having read through Alabama's voting regulations, which was a nice, thick book -- it was not a good beach read.

[Laughter]

MS. CARROLL:

But anyway, there's a lot of repetition, and it's not super searchable, so I'm excited about this, that when hard questions come up, that people would be able to look at it. But as someone who works with databases and information systems all the time, searchability is important, I think.

I also had a question with regard to -- and I'm down in 1.2.5, the discussion around anti-theft controls and emergency system decommissioning. You noted that there was going to be the ability to remotely remove content and access to devices if the device was

stolen. I didn't see information in the rest of the system, integrity discussion about what the protocol for determining that something has been stolen and who would have the ability to remotely remove content or access from devices.

And then the last question I had, as someone who grew up in a rural area and comes from rural areas that don't have a lot of access to broadband, it looks like this relies heavily on access to internet, so I was curious as to how this was going to work in regions that tend to get underrepresented because they don't have the same level of internet access that might be required to support this. Thank you.

MR. PHELPS:

Yeah. Thank you so much for your questions. For the first two, obviously, those are still being developed, so thank you for those feedback, and we'll definitely consider those.

I come from a rural area. Some city, some rural. And one of the challenges that we faced was, you know, as you know, with the constant check-ins, right? Someone could be at the courthouse and see that I checked in, for example, when I voted, but when you go offline, that pauses until the connectivity comes back and you can upload. So the question that always came up, until our state legislature finally took action, is what about, like, you know, Open Source, and it's a really scary topic, honestly, and it was like, no,

absolutely not. We use Wi-Fi-encrypted, password-protected hotspots, and so folks who can't, obviously, afford that, I think that, you know, the best measure is, in my opinion, and again, still developing and best practices would definitely be needed in this area, but if there wasn't, you know, any connectivity throughout the entire day of the election day or, you know, walk-in voting or what have you, is to come back to the courthouse and wait until you can connect securely and have that data uploaded. There's no sense of having any of our technologies unsecure.

So thank you for that question, and that's something that's on my mind, certainly, as we continue to develop.

CHAIRMAN MOORE:

Okay. I think we have time for one more, and then we've got to go to the final presentation from John. Yes, Clea.

MS. MITCHELL:

I work with a lot of citizen volunteers, and they have a lot of questions about ePollbooks, and I just wonder if I can take those questions and forward them to you?

MR. PHELPS:

Please.

MS. MITCHELL:

And if there is going to be an opportunity for public comment well before the end, but you know --

MR. PHELPS:

Yes.

MS. MITCHELL:

-- more at the beginning of the process.

MR. PHELPS:

Yes, and I apologize for not mentioning that. There will be a public comment period. You know, basically once the testing is complete and we continue moving forward, it will not be at the end. It'll probably be once we have kind of our report put together as far as how these different manufacturers tested against our requirements at the in-house states, and then there'll be probably, I would assume, a 90 -- I think kind of the traditional was 90-day public comment period for folk to be able to submit questions before anything's final. Absolutely. But please, forward all the questions you can to me. I would really appreciate that.

MS. MITCHELL:

Okay. Thank you.

MR. PHELPS:

Thank you.

CHAIRMAN MOORE:

All right. We're going to turn to Jonathan, and we're going to close out your section.

MR. PANEK:

Yes. Thank you. All right. Thank you, Jay. Thank you, guys, for the reminder. Everybody, a pleasure to be here. My name is John Panek. I'm the Director of Testing Certification with EAC, and I'm going to talk today about the VVSG Lifecycle Policy. So this is a presentation that I've done a couple times, so for those of you on the TGDC, you've probably already seen it. I presented this at the Standards Board last week as well, so let's get into it.

So the EAC's VVSG Lifecycle Policy, it's a new policy, written by staff over the last year, prior to approval by the Commissioners on April 4th of 2022. The policy facilitates migration to new standards by providing guidance on several topics, starting with the types of VVSG version changes. We define major and minor. Within the policy, it talks about VSTL accreditation and when accreditation is necessary for new VVSG iterations, depreciation of standards, which I'll talk about today in depth. The policy also talks about changes that may be made to systems certified to deprecated standards. And it also establishes an annual review process for potential changes to the requirements.

So today, I'm going to focus on the last three bullets in the policy. First, VVSG deprecation is defined in Section 3 of the policy, and it means the use of a standard work being discontinued. A more colloquial term for deprecation is sunseting.

To repeat points made earlier by Executive Director Frid, this does not mean decertification. Decertification of voting systems can only take place following the process detailed in the EAC testing and certification program manual, and previous certified systems to deprecated standards shall retain their status.

The policy talks about when there is a path to certification of voting systems to a new major revision of the VVSG with at least one of the EAC's test labs accredited to test to the standard, then obsolete major VVSG revisions will be deprecated 12 months after the date of that accreditation.

Once the obsolete standards are deprecated, the EAC registered manufacturers will be required to submit voting systems to the latest VVSG standard.

So that brings us where we are today. As of last November and December, both of the EAC's test labs were accredited by both NIST and the EAC to VVSG 2.0, the first of which was SLI Compliance on November 15. That means that the VVSG 2.0 is fully implemented and the 12-month clock is ticking.

Borrowing a couple slides straight from Executive Director Frid's presentation, I feel like these are important to underscore and bear repeating, but based on the date of deprecation, the EAC will continue to accept applications to test voting systems against 1.0 and potentially 1.1. Most of you probably know that we haven't

seen a system for 1.1, but it's possible a new submission could be received through November 15 of 2023. After that point, on the 16<sup>th</sup> of November, both VVSG 1.0 and 1.1 will be deprecated.

Following that, applications must be to VVSG 2.0 or limited maintenance modifications to existing EAC certified systems, which I'll talk about a little bit in one of the coming slides.

Again, I want to make it very clear that deprecation does not mean decertification. It only means that testing to those standards will be discontinued. We're allowing a handful of carveouts for limited maintenance modifications to systems certified to 1.0, and this essentially allows for jurisdictions to realize the full lifespan of those systems, because we are currently certifying 1.0 systems as of today, and so, these could potentially be out in the field and used for the next 10 or 15 years.

So jurisdictions will be able to continue to use and procure the systems that have been certified to 1.0. The EAC is not requiring anybody to update or upgrade those systems at any point in the future. They can be used indefinitely.

And of course, as most of you know, it'll take time for 2.0 systems to be certified and fielded. We've currently got one application for a 2.0 system that was approved by the EAC a couple months ago, and so that is currently going through the test campaign process. It's very early in the process. So not really



possible to provide a timeline. That's often a question that comes up: when will 2.0 systems be ready? It's difficult to predict that. It'll take some time, but we are currently working on the first submission right now.

And again, repeating this slide from Executive Director Frid, we have created materials to assist election officials, the communication about deprecation of 1.0 and 1.1. These materials are intended to clarify what this means and to help reassure the public that our systems are still safe and secure and they can be used. And they can be accessed on the EAC homepage. There's a handful of topics up at the top of the homepage, and you'll see that deprecation is first of those tiles.

Okay. So to get into the maintenance exceptions a little deeper, Section 3 of the Lifecycle Policy addresses this subject, and defines that the different types of changes that can be made to systems certified to deprecated standard. In the following categories, we have security updates or software patches, hardware mitigations that address known security vulnerabilities and exploits. Bug fixes to correct critical functional discrepancies, issues, or anomalies. Non-critical enhancements are not considered bug fixes, if you will. COTS replacement of commercial, off-the-shelf equipment that has reached end of life. Jurisdictional rule changes that are legally required by a jurisdiction already

fielding the system due to some form of change in legislation in that jurisdiction.

To clarify, this type of change must be supported by a chief election official, electoral board, or certification body where the system is fielding. This is to ensure that there's no manufacturer loophole for submitting changes that they simply want to make. We want to assure that those types of changes make it into 2.0 certified systems. We will evaluate them that way.

And lastly, updating or adding new components compliant to the current VVSG standard. So we've added this carveout to allow a bridge to certify systems, component by component. It's actually a process that has been in our program manuals for some time that hasn't been widely used, if at all, but this essentially allows for a manufacturer to submit an individual component of a system that would be tested against 2.0 requirements in this case, where the overall system would maintain a certification to the baseline standard.

So when a manufacturer applies for a modification to a voting system, certified to a deprecating standard, they must clearly state under which categories they're applying, must supply supporting documentation for their claims.

So the final section of the Lifecycle Policy addresses two separate items: VVSG review cycle and the update process. First,

there will be an annual review to consider proposed changes to the VVSG. This is not intended to be a yearly update to the VVSG, but rather an ongoing effort to prepare future revisions. The goal is to create a predictable process that invites continuous improvement and engagement with the development of the standard, also to have smaller, more frequent iterations, rather than significant rewrites, as was the case with 2.0 and 1.1.

So the process for the annual review begins with collecting and reviewing feedback and potential recommendations from stakeholders for changes or additions to the VVSG. The testing and certification program director will submit a report to the executive director of the EAC at the end of the fiscal year, detailing proposed updates received.

Following the executive director review, this report will be shared with our FACA boards for review and feedback. And the second part of the Section 4 of the Lifecycle Policy talks about the steps in the VVSG update process. These steps follow what is prescribed in HAVA and required. It just provides a little more granularity on exactly how we're going to go through that process. Vetted and accepted feedback from stakeholders on proposed changes to the VVSG from the annual review will feed into the new revision.

So to accomplish this, we are envisioning the timeline that you see up on the screen: a 90-day public comment period each year, from approximately February through May or June to receive feedback from stakeholders. We currently have public comment open on Regulations.gov. This is the first year we're doing the annual review process in this manner, and that period of public comment will be open through June 7.

After the closeout of the public comment period, testing and certification staff will compile all submitted comments and post them to our website. Following that, I will write a report to Executive Director Frid due at the end of the fiscal year, and that will be reviewed at the EAC. A determination will be made as to whether or not the proposed changes warrant updating the VVSG, not something I envision occurring the first year that we're doing this, but at some point in the future, that will be approximately the stage at which that decision is made, of course based on feedback from our FACA boards as well.

Following the executive director's review, the report and the recommendation will be sent to our Advisory Boards by the end of the calendar year, approximately. I don't make any promises on dates. That's right around the holidays, but you know, maybe we'll look at January if it gets a little bit late, but essentially, what we want to do is work with NIST and the TGDC as a first priority to look

over the proposed changes and then have that feed into the Standards Board and all of you, the Board of Advisors, as well as our Local Leadership Council.

So to get into the specifics of the report, since we're going to be doing this annual review one year after the other, there's going to be some quantity of comments that are accepted, some that are rejected. Accepted comments will feed through to the next annual review process so those can accumulate and be written into the next iteration of the VVSG.

I want to highlight that the report isn't necessarily considered a recommendation or supported by the EAC. We're presenting it simply as a summary compilation of feedback received. The executive director's decision to initiate a new draft of the VVSG would consider the nature and volume of changes proposed as well as feedback from the Advisory Boards.

As mentioned previously, the VVSG update itself will follow the familiar HAVA-mandated process, including public comment, review, agency review and comment, and consideration by the commissioners. And both the report and the raw feedback will be posted on the EAC's website.

Okay. That concludes my presentation. I want to turn it over and see if anybody has any questions they'd like to ask.

CHAIRMAN MOORE:

Commissioner Palmer, please. Thank you.

COMMISSIONER PALMER:

I just have a question for you. Could you describe the penetration testing as part of the program manual changes and how that impacts 1.0 systems?

MR. PANEK:

Yes. So with the --

CHAIRMAN MOORE:

Turn your mic back on, please.

MR. PANEK:

Oh, sorry.

CHAIRMAN MOORE:

Thank you.

MR. PANEK:

So with the accreditation of the labs to VVSG 2.0, the latest iteration of the program manuals, version 3.0, is now effective. Those are posted on our website. A major addition, as Commissioner Palmer has asked, is penetration testing of systems, submitted to the testing and certification program. So we are currently implementing this now, with not just 2.0 systems that are requested by manufacturers, but we are also doing this for 1.0 requests that we are receiving. So essentially, any submission to

the program will undergo penetration testing up front as part of the application process, essentially, and the test-readiness review.

This penetration testing is conducted by the test labs. It's not an exhaustive penetration test, but it is a new addition to the program, something we haven't explicitly done as part of the evaluation against standards in the past, so the hope is that this will help strengthen the security posture of systems submitted to the program where findings will be reported to the manufacturer that they'll have to fix during the test campaign process.

CHAIRMAN MOORE:

Okay. Barbara, you first. Question.

MS. SIMONS:

Okay. So I'm glad to hear about the penetration testing, by the way. So you said that if components are upgraded, they can be tested, you know, for systems.

MR. PANEK:

Yes.

MS. SIMONS:

Is there any chance they can be just individual component testing so that people can just buy individual components, not necessarily associated with a particular system that they have?

MR. PANEK:

Yes. Thanks for the question. That's also a new addition that we have in the 3.0 program manuals is a component testing pilot program. We have not been approached by a manufacturer that wants to do this yet, but we do have at least the basic policy structure in place to allow for an individual component to be submitted with interoperability testing. That'll be something that we envision will be a strong point of focus with submission of those components.

MS. SIMONS:

So it'd be possible to do a mix-and-match?

MR. PANEK:

Yes, that's correct.

MS. SIMONS:

Thank you.

MS. KAGAN:

Thank you, Mr. Chair. John, first off, could you go back to slide 8, please?

MR. PANEK:

Yes.

MS. KAGAN:

And I should say Cheryl Kagan, very proud to be the senator for NIST, which is in the heart of my district, and I love bragging about the great work they do.



I have two questions, and I don't know if this is a new-person question or not, but what I don't see in here is anything about reporting to the public and marketing, and if we are trying to make sure that people have confidence in our elections, posting something on the website seems not the right way to reach the general public, let alone even the conduits, like the press and advocacies of political parties and all that, so that's question number one.

And then, question number two, you said this might be annual. Do you assume the same timetable in election years and non-election years?

MR. PANEK:

Yes. So to answer your first question, excellent point.

Thank you. Good question. I appreciate that. You know, I think posting them on our website is the primary mechanism that we've used in the past, and this is for feedback on what proposed changes, you know, what stakeholders feel should be made to the VVSG. But there is, you know, an additional stage to that when a draft is initiated. That'll go out for public comment as well, so there will be multiple stages of that. I don't know. Like, are you talking about something more like media outreach or --

MS. KAGAN:

Well, when you say go out, I don't know what that means and what sort of lists and what sort of social media and visibility. I just want to suggest, as you're thinking about this, trying to reach the general public, putting it on the EAC website seems like not ideal. I don't think the average conspiracy theorist or activist is finding the EAC website and reading possibly a dense report that's super technical --

MR. PANEK:

Sure.

MS. KAGAN:

-- but the takeaway that we would want is we're paying attention. We're looking at technology. We're keeping your elections secure. We're updating systems. I mean, I think the metamessage is going to be -- and no pun intended in terms of Meta -- but I think that's going to be important.

And then, again, the question about election year versus, you know, off years, and I know for election people, there's not actually off years, because you're busy all the time, but I wonder if the pattern and the timetable is expected to be the same.

MR. PANEK:

We do envision doing this on a yearly basis, and so unfortunately, every other year is an election year. It doesn't mean that --

FEMALE SPEAKER:

Some places every year.

[Laughter]

MR. PANEK:

Pardon?

MS. KAGAN:

That's why I said every year.

MR. PANEK:

Every year, yes, that's right.

And so, you know, the language for the annual review process actually comes right out of VVSG, and this is the process that we've developed to work through it, but the --

MS. KAGAN:

Is it realistic? Just asking a question.

MR. PANEK:

Well, it depends on what the feedback looks like. We might receive zero comments.

MS. KAGAN:

Okay.

MR. PANEK:

We might receive a thousand comments, so --

COMMISSIONER HOVLAND:

John, can I add a little context there, too?

MR. PANEK:

Yeah.

COMMISSIONER HOVLAND:

You know, I think one thing that is a big part of what John's presentation is -- sorry. Ben Hovland, Commissioner, EAC. You know, for those of you who were here for the VVSG 2.0, obviously, that was a huge lift. It was, you know, 15 years of technology and a jump forward. We had certainly heard the concerns from this body and others about stagnation, and a lot of the Lifecycle Policy is really about figuring out how to address that. And some of the testimony we heard in some of the hearings, you know, the test labs would bring up, you know, a relatively minor issue that had been brought up but never got addressed.

And so, more than what John is talking about in this annual review process being the VVSG process that some of you have seen over the years. It's really to be able to address those things faster, to be able to take those on. Again, it might not be wrapped up. We may not go through the HAVA-mandated process for adopting a change in a particular year, but that we can talk about those concerns, that we can address those concerns and then wrap those into an update at the appropriate time without having to do a massive, sort of decade-long lift at the same time.

So I think that's a big piece of it that I certainly wanted to highlight again. We've heard the feedback and certainly understood the challenge of getting to the 2.0 standard, and we hope that whether it's 2.1 or 3.0, we're able to put in structural pieces to make that more efficient going forward.

One other thing, just appreciated the comment sort of on educating the public. You know, again, I think that these standards are certainly very weedy, and there's an element that we would like to talk about more, as far as everything that goes into testing. One thing I would highlight is while our budgetary slide earlier is one we are very excited about and reflects a positive growth, we probably need to add one that puts us in context of other federal agencies. You know, in the news recently, I'll say, you know, I saw somewhere somebody noted the Dominion lawsuit was ten times the grant budget that the Congress provided.

[Laughter]

COMMISSIONER HOVLAND:

It's 30 times our budget, and it's twice as much money as this agency has had in its history combined. And so I highlight that, not for any reason other than to say, you know, doing this work at the 50-state level, at the national level is difficult, and in turn, communicating that is difficult, and so we certainly rely on you all, as ambassadors of the agency, to help with that, but also, you

know, to help educate folks about what the realities are of that and how -- you know, if there are these needs in the broader community, I think that, you know, we are all extremely willing to address those within the capacity that we have.

And so, you know, again, love the feedback that we're getting. This has been a great conversation, but I just wanted to sort of highlight those parameters of the agency and this program. Thank you.

CHAIRMAN MOORE:

Thank you, Commissioner. That was a very good clarification. Member Walker and then Lamone, then Secretary Way.

MS. WALKER:

Chris Walker, Jackson County, Oregon. First of all, I just want to tell you how thrilled I am that we're actually having this conversation about certifications again. Not so long ago, I remember where we couldn't even have a quorum and we couldn't certify equipment. There were certain business partners, I call them, or vendors that had equipment that just sat there, waiting to be certified for years, so I'm thrilled we're having this conversation. Kudos for recognizing and for the higher-ups' funding of the EAC.

You spoke about the Lifecycle step, and early on in the conversation, it reminded me that I remember when we went to buy

new equipment, the 550s. We were ES&S years ago. We went to buy, you know, move up to the next newest-and-greatest. But during those times, of course, with the sell, we were told, oh, gosh, this equipment will last you 10 to 20 years. And you know, in reality today, technology absolutely moves faster. The time we get that equipment, it's already old news. So I think that's something I know we're trying to recognize.

And I think these new VVSGs are going to be more frequent than what they were in the past. I think that's something we need to be mindful of. I like the component of the a la carte, basically is what I call it, the component for certification, but I really wonder what business partner will take a look at a component and try to get certification. There may be instances, but really, they're private companies, and it's their bottom line. They're in it to make money. They're not in this just to be a volunteer and to break even. So I think it's an important piece of it, but I think what they're going to be further looking at is the bigger picture, if either equipment or it's going to move to that software as a service model. So at what point do we look at equipment-based technology versus software as a service, which will probably become more prominent as we move forward. Thank you.

CHAIRMAN MOORE:

Let me get to Linda Lamone. Did you still have a comment?  
I'll let you answer, John, once we get the other comments out of the way.

MS. LAMONE:

As you all heard last week at the Standards Board's meeting, there's a lot of angst out there among the election administration community about the deprecation schedule and how it's going to be explained to the public and the members of the general assembly at each state. Have you all thought about, perhaps, doing a little bit more to help us educate people, because we're going to get a lot of disinformation about, oh my God, they're using decertified equipment, when it's not true?

MR. PANEK:

Yeah. Absolutely. Yes, we have talked internally about a communication plan, and we are currently putting that together. I don't have details here in front of me, but I know we're working on developing that plan --

MS. LAMONE:

That's great news.

MR. PANEK:

-- to communicate that out --

MS. LAMONE:

Thank you.



MR. PANEK:

-- every chance we get.

MS. LAMONE:

And if you could communicate that to Leslie and Amy as soon as possible so that the membership of the two organizations can take a look at it?

MR. PANEK:

Yes.

MS. LAMONE:

Thanks.

CHAIRMAN MOORE:

Yes, Secretary Way, please.

MS. WAY:

Thank you, Linda, because I was going to ask about that, too, the verbiage of deprecation instead of sunseting. And this somewhat dovetails, and I might be underscoring on what Cheryl mentioned, what Commissioner Hovland mentioned in terms of communication, which is key gearing up to 2024, and of course, we're battling intensely the mis- and disinformation.

And speaking just from experience, as New Jersey's Secretary of State, not just president of the National Association of Secretaries of State, I feel that it is a good feel, if you will, and it's prudent when you do have an independent federal agency, such

as yourself, the EAC, correct, and who's out there communicating on a broader scale, to your point, Cheryl. And I don't know if it would behoove the agency. Commissioner Hovland, you speak about dollars in terms of making certain that there is a somewhat of a professional communications team that can give that broader appeal.

You have so much on your website. I review the toolkits, the poll worker program, but not the everyday person is out there on this site. And you know, I say this. I'm coming from a good place. I say this respectfully. If I name Election Assistance Program to folk, and you know, I apologize I wasn't here for the majority of this because I'm dealing with my senate budget hearing, and I'm glad to mention this week the Election Assistance Commission and respectfully the legislature, a good portion, may not even be familiar with this independent federal agency. So you know, it is very key that there is a professionally driven communications tool, person, entity, whomever out there to ensure that this mis/disinformation on the new standards and all of these other aspects of our election process is, you know, pushed out there.

So that's my comment.

COMMISSIONER PALMER:

I'll just weigh-in on it. We completely agree. This is Commissioner Palmer, EAC. The Commissioners, you know, have

gone to a number of states, including Louisiana. Your colleague at NASS talked about the voting systems and the difference between 1.0 and potentially 2.0.

That really is the model in my mind, because you know, we recognize that we don't have the bandwidth to have the megaphone at the federal level that each state could hear. We could only do this working together, and so that means communication, and we will be -- you know, we're often in touch with NASED and NASS and sort of if there's opportunities, we are more than willing, in our schedules, to come and stand with you and talk about the voting systems and support and talk about why they're secure and accurate and the difference between 1.0 and 2.0.

So I think that's really in my opening statements. This body's extremely important, because it's not just election officials. It's legislatures. It's mayors. It's the Congress. It's other stakeholders that you all have folks that listen to what you say. You represent them, and so getting the message out on what actually happens with voting systems is extremely important, but we can't do it alone. I mean, that's just frank. We can do all we can. It's much more powerful coming as a partnership when there are opportunities.

CHAIRMAN MOORE:

Okay. We're going to have time for maybe two more. Then we're going to have to break. Go ahead, Mr. Fry.

MR. FEY:

Thank you. Eric Fey, St. Louis County Board of Advisors.

CHAIRMAN MOORE:

Fey. I'm sorry.

MR. FEY:

No, that's fine. My question was about VSTL, the testing laboratories, and this is to any Commissioner or EAC staff member that might be able to address it. In the last couple of years, really for the first time in my career, some of the folks who had questions about elections started bringing concerns about the VSTLs themselves, and so from what I understand is, you know, it's no small investment to stand up with VSTL and to have it be accredited and everything, and so can anybody speak to the health or robustness of the two currently accredited labs? And is there some backstop in place if, at any point, those VSTLs ceased operation? Is there a way to stand up another one and ensure that the testing continues?

COMMISSIONER HOVLAND:

You know, Eric, thanks for asking that. I think it's a good flag, and you know, this is an interesting piece of HAVA. HAVA requires the labs to be private labs, so there's an element of that.

Over the history of the agency, there have been, you know, at times, other laboratories, but it seems like two tends to be where the number ends up. Part of that is because the HAVA requirement that they're private labs and then ultimately they're for-profit entities, there's only, as you can imagine, so much business.

You know, currently, we're very excited about Pro V&V and SLI and our relationship with them and that they came into the 2.0 standard, you know, but it is certainly something we're conscious of.

I don't know if others want to add in, but you know, certainly, we are hoping that, you know, with expansion of things like ESTEP, you know, that would also foster additional sort of market. We think things like component testing, you know, could potentially incentivize the market and create more interest broadly in this space. But certainly, there are limitations within HAVA on the structure and in market realities as well.

CHAIRWOMAN MCCORMICK:

And I'll add to that. This is Christy McCormick, EAC. A number to the manufacturers have been using Idaho National Labs to do some penetration testing and coordinated vulnerability testing, so even though they're not one of our labs, they have been utilized. And we have visited them, and we have discussed, you know, the

possibility of how we might use them in the future. That's still a big question mark.

But I'll also add that both of our labs have recently undergone the NVLAP process through NIST and our own certification to be certified to be 2.0 laboratories and both did very well and came out as very robust laboratories, and we totally trust them to do this very important work. So I'll just add that as well.

CHAIRMAN MOORE:

I think we have time for one more. Keith Ingram has the last question.

MR. INGRAM:

So this, I think, is for Steve or maybe one of the Commissioners, but you know, most of the time that I've been in elections the last -- Keith Ingram, Texas, by the way -- that I've been in elections, the EAC's been sort of like the Little Agency That Could, and it's just been chugging up that impossible hill, just chugging away, trying to make some progress.

And it's a radically different thing when you all come here today, talking about certifying pollbooks and voter registration systems and whatever other components. I mean, that seems like a very remarkable expansion, and I was just as pleased as you all to see that budget slide and 37.8% increase is good. But is it

enough to cover what you all are trying to bite off? I mean, this seems like you might be biting off more than you can chew.

CHAIRMAN MOORE:

Commissioner Hovland, can you speak to that again? I know you've talked to this a lot over the -- oh, I'm sorry. Tom.

COMMISSIONER HICKS:

Well, I guess I'm the only Commissioner who hasn't spoken.

[Laughter]

COMMISSIONER HICKS:

Just to keep my job.

CHAIRMAN MOORE:

I'm sorry about that, Commissioner Hicks.

COMMISSIONER HICKS:

No, no, it's fine. Keith, thank you. And I think that the large part of that is due to the work of the Board of Advisors and Standards Board being our advocates on the Hill and with others to help expand our budget. Yes, but to make sure that folks realize that that's still not the budget that we should be at. One, it's still below what we were in 2010, if you account for inflation.

And so, there are a lot of things that we've expanded upon. This is why we've hired Steven to, you know, direct staff so that we can be more of an agency that can expand upon other things. When Christy and I first got here in 2015, the major thrust of the

agency was how do we survive? We only had about a \$7 million budget, and that was basically to keep the lights on.

Since that time, we have worked and shown our true value, and I believe that we continue to do that. I think there are other things that we can expand upon, but that will include increasing our budget.

As Ben said earlier, if you look at our budget compared to other agencies, we are just, you know, basically a tire for an F-35 fighter, basically, and so to think about what other things we can do, we do need that money to come into the agency, and we are not allowed to go up and lobby for that, but if members of Congress, who may come today, ask us about it, we will express upon that.

And so, I implore all of you to give us your ideas but also realize that we are still a small agency, and there are only certain things that we can do.

COMMISSIONER PALMER:

So, Keith, this is Commissioner Palmer. You know, I mean, look, I think we're still the agency that can, and the reason is, you know, we are getting increases in the budget, but we do see certain needs out there. And look, you can't look at the election landscape and, you know, the resources are needed to the community to help the local election officials, the fact that we do need some sort of



testing and standards for pollbooks. And so, it's just like you at the state level. You're going to do what you can with the budget you have, and, you know, as the budget comes, perhaps we can do things quicker, more efficiently, but when you see a need, you run to the fire, and you do the best you can, and hopefully, the resources will be there. And look, I think there's bipartisan support, not only the commission but in the Congress for a lot of things that we're doing, and so we're just doing the best we can and hopefully the resources will follow.

CHAIRMAN MOORE:

So --

COMMISSIONER HOVLAND:

Sorry. Can I just add one, quick thing on there?

CHAIRMAN MOORE:

Yes.

COMMISSIONER HOVLAND:

I hate to miss a chance to talk about funding.

[Laughter]

COMMISSIONER HOVLAND:

No. I think, you know, again, Keith, I really appreciate the point and agree with my colleagues, but a couple things that flag a lot of what you've heard about is pilots. Part of the reason that we've structured that way is recognizing, you know, what

responsible growth looks like. This is, you know, sort of investigating these areas that we see needs to figure out if we're the right fit and what the right approach is, but also to be able to take the results of these things back to Congress to say, you know, this is what we learned in this pilot effort. You know, we heard this from our stakeholders, from election officials from our boards. You know, this is the result of this, and you know, put that in things like, you know, our congressional budget request and to be able to talk about and sort of prove a concept.

You know, additionally, when I think about ePollbooks, and in this conversation, I'll put on my former senate staffer hat for a second. You know, we saw legislation on ePollbooks in both chambers, both parties. You know, there was obviously a congressional interest in that. You know, there's a lot of things that happen up there, and they don't always have the ability to deep-dive the way specialists can, and so, through these pilot efforts, like on ePollbooks, you know, we're able to learn so much, and so if there is a legislative effort, you know, again, we're able to provide that technical assistance and inform that.

And so, you know, I really see, sort of, all of these things, you know. I'm glad, again, that you recognize, you know, the strides that we've made, but you know, I do, and I take the point, but I think we have been very conscious to try to do these things in

a way that's either sustainable or we can sort of assess after an investigative effort. Thank you.

CHAIRMAN MOORE:

Let me just take a point of privilege. Jim just asked me, could he ask for a list of what we should be asking for. And I believe there was some communication that there's some document that shows, I guess, best or greatest needs. Is that what you were speaking of, Jim?

MR. DICKSON:

Yeah. Yeah.

CHAIRMAN MOORE:

So if we could, at some point, have something for the Commissioners to work with. I think I've seen those documents before, but I know there's something that exists from about a year ago, but it would be something that we could help steer some of our conversations that we're having.

MR. DICKSON:

I'll work the Hill to get money, but I need to know what the priority list is, and it needs to come -- you know, it can't come out of my head. It has to come from you.

COMMISSIONER HOVLAND:

Real quickly, I'll note that I saw a look from our Acting General Counsel, again --

[Laughter]

-- a FACA reminder about lobbying, and certainly we have those limitations as well, but you know, we have made legislative recommendations to the Hill. Certainly, that's something we can share. And because I see our relatively new Inspector General in the background there, I'll note that she put out a top-management-challenges document that isn't something a lot of people necessarily see or look at, but I think it really highlighted. It really did a great job of highlighting a lot of the challenges that the agency faces: structural challenges with limitations in HAVA, you know, things like, we have salary caps at the agency that -- you know, forget private sector competition. You know, people can go work -- earmuff, staff. You know, they can go to other federal agencies in D.C. that are allowed to pay them \$40,000 more than we are. That's a real challenge, and it's something that is in HAVA.

And so, you know, that and other parameters that again, our Inspector General --

MR. DICKSON:

Can we be sent that document?

COMMISSIONER HOVLAND:

Yes. You know, so again, I recommend taking a look at that as well, and we can send it around.

CHAIRMAN MOORE:

So thank you so much for all that lively debate, but thank you for the presentation.

[Applause]

CHAIRMAN MOORE:

All of our staff. There's certainly a lot. You've got people thinking a lot now about what's coming in the future.

A couple housekeeping items. One, we are running a few minutes late for lunch. We do want to take a group photo before we finish and come back and reconvene. Is that still happening?

MS. BRADY:

We're going to do it at break time now, so no intrusion on your lunch period.

CHAIRMAN MOORE:

Okay. All right.

MS. BRADY:

We'll catch it right before the break.

CHAIRMAN MOORE:

Yeah, so make sure we all are present for that. And what time will that be? Is it after?

MS. BRADY:

It'll be before our afternoon break, so we have an afternoon break at 2:45, so we'll do it right before then.

CHAIRMAN MOORE:

Right.

MS. BRADY:

But you have an hour for lunch right now.

CHAIRMAN MOORE:

So thank you, sir. It'll squeeze everything, but we do need to take that group photo. And lunch is right across the room where we had breakfast, but in order to do that -- we are going to finish this conversation, but I think because of the lunch, I don't want to have all of you talk about what you want to see on the agency and then we're going to be here until 1:30. So let's do lunch, and maybe at lunch, if we have a little bit more time, we can finish the round to go around with. And then one more -- yes?

MS. SIMONS:

Is it safe to leave our things here?

MS. BRADY:

Yes, we will have EAC staff in this area. Thank you.

CHAIRMAN MOORE:

Okay.

FEMALE SPEAKER:

Thank you.

CHAIRMAN MOORE:

Final thing, I do need a motion in order for us to recess and go into lunch. Is there -- so moved?

MR. STARK:

So moved.

CHAIRMAN MOORE:

Is there a second?

MS. WALKER:

Second.

CHAIRMAN MOORE:

All in favor, say aye for lunch.

[Chorus of ayes]

CHAIRMAN MOORE:

We'll reconvene at 1:30. Thank you.

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[The Board recessed for lunch at 12:33 p.m. and reconvened at 1:30 p.m.]

## **COMMITTEE ON SENATE RULES AND ADMINISTRATION MAJORITY AND MINORITY REMARKS**

CHAIRMAN MOORE:

Hopefully, everybody had a great lunch. We're going to start our program back up. We have not forgot about this side of the room. We are going to have you guys recognize yourselves, but we have guests coming from Capitol Hill. We don't want to keep them waiting. We know it's a long trek between here and there, so thank you for being here.

[Laughter]

CHAIRMAN MOORE:

I'd like to recognize Commissioner Palmer, who will introduce our guests and lead our conversation for the congressional panel.

COMMISSIONER PALMER:

Thank you, Mr. Chair. Thank you. I'd like to introduce our next panel to discuss, you know, what is happening from a legislative perspective in the Senate and talk with the Committee on Senate Rules and Administration Majority and Minority Staff. We have two guests today. There'll be Allison Davis Tuck, Chief Counsel Minority, Senate Committee on Senate Rules, and then Dan Goldberg, Policy Director, Majority, Committee on Senate Rules.

I'd like to briefly give you their background before we get started, and I have a few questions when we get started.

Allison Tuck served as minority chief counsel for the U.S. Senate Committee on Rules Administration. She previously served as counsel to Chairman Allen Dickerson and Vice-Chairman Sean Cooksey at the Federal Election Commission. Before joining the FEC, she was in private practice, advising candidates, office holders, political parties, PACs, corporations, trade associations, and other organizations on compliance with all aspects of law



concerning the political process, including state and federal campaign finance, ethics lobbying, and pay-to-play laws.

Daniel Goldberg, our next panelist currently serves as Policy Director for Senate Rules Committee. Prior to that, he served as special counsel to Senator Amy Klobuchar. He previously served in government as senior counsel to former Senator Tom Harkin, and the Health, Education, Labor, and Pensions Committee, which he chaired, and as chief of the staff in the Department of Justice Office of Legislative Affairs during the Obama administration. He's a graduate of Harvard Law School and the University of Wisconsin.

Thank you for joining us today. We really appreciate it. I'm going to start off the questions. I think you were going to -- we were going to give them some time to talk, or were we just going to just launch into questions?

[Laughter]

CHAIRMAN MOORE:

I think it was five minutes. I think it's five minutes.

COMMISSIONER PALMER:

My apologies. We're not going to just launch into questions.

Talk about going cold.

[Laughter]

COMMISSIONER PALMER:

So, Dan, why don't we start with the Majority, and then we'll move to the Minority, but if we give you a few minutes to talk about what you see in the legislative path the next couple years.

MR. GOLDBERG:

Really a hot bench.

COMMISSIONER PALMER:

Yeah, there you go.

MR. GOLDBERG:

Not even getting my intro. So I want to thank the Election Assistance Commission for the invitation to join you today, and most importantly, thank you for your continued commitment to improving election administration and election security. It's an honor to be here with the federal agency whose sole mission is to improve elections.

It's also a pleasure to be here with my new colleague, Allison Tuck, from the Ranking Member's staff. The Rules Committee has a tradition of working together in a bipartisan way, and Senators Klobuchar and Fischer have continued that tradition.

Just illustratively, they introduced together a bipartisan bill on the top legislative recommendation of the FEC. In March, they led a bipartisan hearing on the work of state and local officials who administer our elections. And Senator Klobuchar really, really looks

forward to working in a bipartisan manner with the Ranking Member.

As you know, state and local election officials across the country worked tirelessly in the leadup to the 2022 midterm elections, ensuring over 111 million Americans could securely cast their ballots. But there's no break, as you very well know. The 2024 primary elections are less than a year away, and we know effective election administration takes dedicated planning and resources.

One area that I want to highlight that is particularly urgent and of import to Senator Klobuchar is the need to counter the barrage of threats and harassment targeting election workers. According to a survey released just today by the Brennan Center, nearly one in three local election officials have experienced threats, harassment, or abuse. State and local election officials from both parties have testified before the Committee about the threats and harassment that they've had to endure. These dedicated public servants should be able to do their jobs without fear or intimidation.

That's why this week, Senator Klobuchar will reintroduce comprehensive legislation, the Election Workers Protection Act, to provide states with the resources to recruit and train election workers and to invest in election worker safety.

I know this is an issue that --

MR. DICKSON:

I'm sorry. Repeat the name of that act.

FEMALE SPEAKER:

Yes.

MR. GOLDBERG:

It will be the Election Workers Protection Act, and that will be introduced likely tomorrow.

I know this is an issue that the EAC is focused on as well. Last year, again in a bipartisan manner, Senators Klobuchar and then-Ranking Member Blunt, wrote to allow state and local election officials to use federal funding to protect election workers. That was after the release of a legal opinion by the GAO. And Senator Klobuchar and Senator Dick Durbin, as the chair of the Judiciary Committee, have also led their colleagues in urging the Department of Justice to take additional action to protect election workers from threats to their safety.

Beyond that critical issue, Senator Klobuchar is focused on making sure that state and local governments have a steady and reliable stream of federal funding for elections. Your work is so important, and Senator Klobuchar is committed to working to ensure the Commission has the resources and expertise it needs to

be successful and that those resources reach local election officials directly.

Finally, I want to note that, in many states, voters continue to face new laws that will make it harder to vote, and Senator Klobuchar continues to work to advance commonsense reforms that make it easier for voters to exercise the franchise.

In conclusion, my colleagues and I in the Majority office are here to listen and work with you, and with Senator Fischer and her staff in a bipartisan manner in our shared goals of improving the administration of our elections, supporting our election workers, and improving our democracy. Please -- and I emphasize this. Please reach out any time with your thoughts, your feedback, and how we can better support the critical work that you do.

So with that, I think I'd turn it over to Allison.

MS. TUCK:

Thank you very much, Dan, and thank you, Commissioner Palmer, for that introduction. I'm honored to speak here today on behalf of Senator Deb Fischer, the new Ranking Member of the Rules Committee. She has asked me to convey her support for the crucial work at the EAC, Commissioners, and staff, and the Board of Advisors in promoting best practices and guidelines that help ensure the integrity of our electoral process.

Thank you, all, for your commitment to this important work and for your service to our country.

Senate Republicans recognize that the EAC plays a pivotal role in supporting and promoting fair, accessible, and secure elections across the United States. With that in mind, Senator Fischer's view is that elections are, and should continue to be, run at the state and local level. The federal government can support those efforts, but it's the states' responsibility, under the Constitution, to make decisions about the particulars.

And she appreciates that the EAC through its programs and initiatives, has provided states with the resources to develop individualized approaches to improving their processes, modernizing voting systems, and enhancing the accessibility and security of the voting process. Every state's needs and concerns are different, and we simply don't think it's the ideal approach to impose ill-fitting federal mandates that don't actually solve states' problems.

Recent years have seen a rise in attempts to undermine the security of our elections. Senator Fischer believes the EAC has a critical role to play in helping states to recognize these risks and counter these threats in order to protect the integrity of our elections. She also recognizes that the success of the EAC's

efforts, through its various programs and initiatives, ultimately depends on adequate funding.

It is her intent to continue to support the EAC in its vital work, and we in the Senate look forward to hearing about how the 75 million in HAVA funds appropriated in fiscal 2022 is being put to use and what else can be done.

Looking forward, I want to echo my colleague, Dan, and make it clear that Rules Minority's door is open. The first hearing that the Committee hosted this Congress, as Dan said, was on the topic of state and local perspectives on election administration. So I know this is top of mind on both sides of the aisle.

I would greatly appreciate -- and I also mean this -- hearing from state and federal officials about their views, especially on the topic of improving the resilience and cybersecurity of election infrastructure. It's Senator Fischer's and my intent to approach these issues with an open mind and to work collaboratively and in good faith with our friends in the Senate Majority and in the House to support the EAC in its mandate and mission.

Thank you very much for your time and attention.

COMMISSIONER PALMER:

Well, I'll get started. There's a couple questions, but I will start with what I thought is an interesting question I'd like to hear. In your engagement with constituents and the broader American

public, what are you hearing, in terms of voter confidence in elections? I've seen some polls not so good, some okay. What are you hearing, and what are your thoughts on those?

MS. TUCK:

Sure. So at our hearing, we brought in the Nebraska Secretary of State and Howie Knapp from South Carolina, and I think that they had a number of concerns at their hearing from their constituents, so that's the perspective that I'm able to offer. Senator Fischer is new, so we're still gathering information.

But I think that cybersecurity is top of mind. I think that ensuring that strong voter ID laws are in place are something that actually inspires voter confidence. That's a bipartisan issue, and that's a state law issue. But I think that there has been a low point in recent years, but it's steadily improve, from what I understand from the people we've spoken with.

MR. GOLDBERG:

I want to echo how valuable the bipartisan hearing we had is and hearing from election officials from both parties. I think what Senator Klobuchar is hearing from voters are -- again, I emphasize the commonsense reforms that will make it easier for voters to exercise the franchise. That's number one that she's heard from a lot of constituents. I think she'd say that she's proud of the fact that Minnesota has the highest voter rate in the country of any state,



that people are proud of their civic engagement in Minnesota, and that can be really a model for the rest of the country and how do we encourage everybody who wants to participate in our democracy to participate in our democracy.

I do want to pivot back to what we're hearing from folks on the ground. I can't emphasize enough the election worker protection. We hear from election workers regularly on how critical that issue is and how that has increased as an issue over the last several years.

I don't know how many people saw the Brennan Center report that just came out a few hours ago, but not only did it highlight the threats that election workers are receiving, but the number of election workers, as I'm sure you know, who are leaving their work, and I think that the figure was -- I'm not going to say a percentage, but it was an incredibly high percentage of turnover among election workers, which is creating a challenge as we go into 2024. Just losing that institutional knowledge, people who knew what they're doing on the ground and having to train people up.

So those are two critical issues I think going into 2024.

COMMISSIONER PALMER:

So one more question before we turn it over to the members for questions. You mentioned that you have open doors, and I

think I've at least visited you, Allison, and I'll hope to visit you, Dan. How can this Board be informative to Congress on issues around election administration? Is it phone calls and e-mails, or is it in-person visits? What's your advice to the members?

MR. GOLDBERG:

Any and all of those. With all seriousness, looking around this room, the amount of immense knowledge about what's happening across the country is so critical. And this goes to the question you just asked about what are we hearing. You're on the front lines, hearing from how elections are being administered throughout the country and how Congress can assist you and assist people on the ground to make sure our elections are run as smoothly as possible.

So please, whether just anecdotal experiences or more data-driven evidence, but please, please call, e-mail, knock on our doors, especially -- I think the Senate Rules Committee was in charge of recently changing, moving past COVID, so people can now enter the building. So please, please stop by and share the experiences that you're hearing and how we can work in a bipartisan manner to address the issues. So please come by.

MS. TUCK:

Yep, I agree. I echo everything that Dan said. The center is open for business. I'm not particular about how information comes

to me. I answer my phone. I respond to e-mails. I take in-person meetings. I like in-person meetings, so, you know, I'm eager to hear everything. You know, state officials know what's happening on the ground, and that's the most important information, and so please reach out or hold a stack of cards with me, so --

[Laughter]

MR. GOLDBERG:

And the only thing I'd add is also a reminder that while we're the Chair and Ranking who are sitting here, it's a broad Committee, and so please, please communicate with others, not only on the Commission but the full Senate and House, to make sure that they're also aware of your concerns.

COMMISSIONER PALMER:

Yeah. With that, we have time for a few questions. Are there any members that would like to ask a question? Mr. Moore?

CHAIRMAN MOORE:

I'm not asking a question, but I'm going to defer my question to a member who has to leave, I know, at 2:00. I think she knows who I'm going to mention, but Secretary Way is the president of the National Association for Secretaries of State. I know she has to leave at 2:00, so I just wanted to give her the first option, if she had a question or a comment that she'd like to make before she has to leave.

MS. WAY:

Thank you, Greg, for putting me on the spot.

[Laughter]

MS. WAY:

That's what they do. That's what they do. Yes, I'm the New Jersey Secretary of State and also the NASS president, and that's a high privilege for me. And I thank each and every one of you for, you know, speaking about the necessary ideal, if you will, that we need to put into place.

I actually, as the New Jersey Secretary of State, signed onto the letter in support of Senator Klobuchar's Election Security Protection Act, and it is important for all of us to realize that on the ground, the election workers are truly bureaucrats, and I sit with them, and it's not the focus of which party, if you should say, so they are human beings, and they are on the front lines and are standing up to our democracy, and that's why we should all, you know, make certain that they are safeguarded, too, so that we can have a democracy continuing.

Now, I do have a question for either of you. Have there been any thought to also include a component of election, the education of what is going on and what voters need to know in support of that? I know, in speaking of New Jersey, we do invest funds for voter education. And it's key, because nowadays, our

voters can somewhat conflate and confuse our rules with other states. So I just feel as though, has there been any thoughts in terms of, you know, any dollars, any resources to be included in the voter education, especially with mis- and disinformation that's going on?

And then finally, I'll just wrap this up by saying, you know, now, as President of the National Association of Secretaires of State, it's always good to have the partner, such as the EAC, alongside of us, because it is a team sport. I think that secretaries welcome communication and also the partnerships that can be aligned throughout the various levels of government to support our democracy.

MR. GOLDBERG:

First of all, thank you for everything you're doing back in New Jersey and with the organization.

I know Senator Klobuchar is giving great thought to the issue of misinformation. It's obviously a broader issue than just confusing laws or educating voters, so I'd love to continue the conversation with you as to your thoughts as we look at the broad issue of misinformation.

MS. TUCK:

I agree. I don't have anything on my docket right now on that particular issue, but I'm eager to hear more.

CHAIRMAN MOORE:

I think I saw Mr. Fey's hand first.

MR. FEY:

Thank you, Mr. Chairman. Hi. My name's Eric Fey. I'm the Director of Elections in St. Louis County, Missouri.

And my question's about funding. That always comes up. And not so much the amount or frequency of it. I mean, that is often debated, but the point that I try to make to congressional members or staffers, whenever the opportunity presents itself, is that we would really like -- and when I say we, local election officials -- would like some mechanism for federal funding to come directly to local election offices.

You know, in Missouri, we had an instance where, you know, the funding comes to the Secretary of State's office, and at least one of the tranches of funding from 2020, the Secretary of State used some of it for his purposes, sent the rest back to the federal government, never funneled it down to the counties.

So I think, again, I would just like to reemphasize that and for you all, in a bipartisan manner, to figure out a way, maybe in the spirit of Roy Blunt, who is our former senator, who was always an advocate for local election administrators and state election administration, to find a way for -- because states obviously need

some of the funding, right, but if there's no guarantee that it gets down to the locals, it can be problematic.

MS. TUCK:

I really appreciate hearing that. It's not a dynamic I was really aware of. I know that some of these funds remain unspent after they're appropriated for a period of time, but that's very good to know. I mean, we are appropriating this money, and we want it all to be used. We don't want it to necessarily be sent back. It should be put to good use, because the Senate and House have determined that's what is needed. So I would like to continue the conversation about that.

MR. GOLDBERG:

And Senator Klobuchar, first of all, has committed to just ensuring the Commission has the resources it needs. Within that context, she has written to encourage that resources reach local officials directly. I can get you a copy of the letters that she's sent in the past on that and work with you going forward.

CHAIRMAN MOORE:

Time for one more. I think Cleta was next.

MS. MITCHELL:

Thank you for coming. My name is Cleta Mitchell. I'm an appointee, designated by the U.S. Commission on Civil Rights.

I wanted to go back to this legislation, this federal bill that you're saying is going to be introduced by Representative -- Senator Klobuchar. None of us want anybody to receive threats. I get threats all the time. I don't like them. We don't want people to receive threats.

But I'm wondering two things. Number one, why is it necessary for the federal government to come in and create a new law when, in fact, last year, speaking of bipartisanship, there was a bipartisan agreement in the Senate to change the language and to have a provision in the Electoral Count Act Reform bill that was agreed, on a bipartisan basis, that that would be in lieu of Senator Klobuchar's initial language.

So if you're really bipartisan, why wouldn't you just say we have addressed this and whatever other issues remain are to be dealt with at the state level? It's already against the law to threaten people, to levy death threats against people.

And the other thing, and then I'll stop, but the thing that I worry about is that this narrative is having the effect of chilling the willingness of another part of the election process and that's the citizen observers. And many jurisdictions use the narrative as a basis for restricting access to observers during the 2022 elections because of the perceived threats to election workers.



None of the prosecutions -- and there were only four or five that the Department of Justice has reported. None of those prosecutions involved observers. They involved citizens making phone calls or Instagram posts. None of them involved observers, but this is being used as a cajole to stop citizens and to chill their involvement as observers when 48 of the 50 states have a statutory provision for election observers, citizen observers.

So I just want to push back on this narrative a bit, because it has an ill effect that I don't think you're really thinking about when you just keep talking about the threats to election workers. I know of particular instances where voters came in and attacked observers because they've been about how bad the observers were and what a danger they were to democracy.

So just know there are some of us who are pretty worried about this narrative, and I'm wondering why we're going back to it.

MR. GOLDBERG:

Well, first of all, thank you very much for the thoughts, and to emphasize what I said earlier, hopefully we can continue a dialogue.

I think Senator Klobuchar continues to hear from people on the ground, Republican and Democratic election officials. The Brennan Center report that just came out today, one third of election workers indicated they have faced threats and harassment

and feels that the approach put forward in the legislation, the comprehensive report to provide states with the resources to recruit, to retain election workers, and to invest in election worker safety is an approach that is supported by officials from both sides of the aisles, across the country, and will give the resources to make sure that people who are devoting their Tuesdays, or broader, to making sure that everybody can exercise their most important right to the franchise, feel safe in doing so.

So, we would love to hear your specific concerns with specific provisions, and please keep the dialogue up. But I think in hearing after hearing, and just from hearing people that this remains a serious problem that she feels that this approach to provide resources to the states to make sure that these critical workers feel safe and are safe is an important legislation to advance.

COMMISSIONER PALMER:

Well, that was all the time we had for questions. I want to thank our guest for coming. We appreciate it, and we'll be in touch.

MS. TUCK:

The door is open.

[Applause]

COMMISSIONER PALMER:

Our next guest is Jay Swanson with Senator Warner's office, and there's been some discussion, both in the community and now apparently in the Congress on the Vulnerability Disclosure Programs and the contour of that. I'll turn it over to you, Jay, and let you discuss the legislation that you're working on.

MR. SWANSON:

Well, great. Thank you very much for that. And thank you. I'm a late add, so I'll be very quick and respectful of your time.

I'm here to discuss Senator Warner and Senator Collins's Strengthening Election Cybersecurity to Uphold Respect for Elections through Independent Testing Act. That spells out SECURE IT, if you were paying attention.

[Laughter]

MR. SWANSON:

So, the SECURE IT Act is a proposal that will likely be introduced sometime next week. As you can tell from the title, the goal is to improve the cybersecurity of election systems with a goal of improving public confidence in elections. The way we go about doing that is by establishing what's known as a coordinated vulnerability disclosure program, a pretty common program that exists in many industries, where independent experts can look for vulnerabilities and report them confidentially.

How it works in this context is that election systems vendors, on a completely voluntary basis, would make their systems available to the Election Assistance Commission, who then would, in turn, allow a certain select group of vetted, independent, cybersecurity experts to spend some time with these systems, to run their tests on them, to look for vulnerabilities. If they find vulnerabilities, they are to report them to the Commission and to the vendor.

Once that reporting happens, there's a 180-day confidentiality window. During that time, the vendor is going to be working on coming up with a way to fix the vulnerability, likely with a patch or some other kind of fix. If it's a fix that needs to be certified by the Commission, the Commission will have an expedited way to review it and approve it. And at the close of that 180-day period, the researcher is then allowed to publish what they found, and the vulnerability will be included in the database of cybersecurity vulnerabilities maintained with funding from the Cybersecurity Infrastructure Administration System.

So, I want to emphasize a couple things. One is, it's a purely voluntary program. It's not tied to certification, in any way. Election systems vendors, if they want, can do it. I think a lot of them are interested, because they want to be able to say independent experts have looked at our system and we fixed the

vulnerabilities that they found. But if they don't want to do it, they don't have to.

And same on the researcher side. We anticipate most of these will be academic researchers who are doing it with the goal to publish once that 180-day window is over.

So that's our proposal. We feel cautiously optimistic of its passage, given its bipartisan support and the support we've had from the industry as well as from the independent cybersecurity researcher community.

But that being said, always welcome to listen to feedback and take other comments or questions.

COMMISSIONER PALMER:

So we have time for maybe one or two questions. Are there any questions from the members? Okay. Do we have one?

MR. SWANSON:

No, just a thumbs-up.

COMMISSIONER PALMER:

Okay.

COMMISSIONER PALMER:

Thank you, Jay and Dan and Allison. Thank you for joining us today, this lively discussion. All right. Thanks.

[Applause]

CHAIRMAN MOORE:

Let me first of all thank you, all, again, for coming, and appreciate you taking the time.

We have a delegation that's with us, and Sara, are you anywhere nearby? Sara Brady? Just so you understand who's behind us and we can properly walk them down. This is the International Visitor Leadership Program for U.S. Elections and Civic Engagement from Poland, and they're here as courtesy of the U.S. State Department, so they're here to observe our meeting. And I know we are going to be tight in here, but we thank you all for coming. And some of them will be in the overflow room there, but they are very interested in what our work is here in U.S. elections, and this group is identified as a major player in that, and so that's one of the reasons why we have such a large turnout.

So that's the reason why we have a big crowd, but let's at least welcome them for our meeting.

[Applause]

## **THREATS TO ELECTION OFFICIALS AND WORKING WITH LAW ENFORCEMENT PANEL AND DISCUSSION**

CHAIRMAN MOORE:

I think we're going to go into our next panel. The next panel is going to be led by Jenny Carroll. It is the Threats to Election Officials and Working with Law Enforcement Panel and Discussion.

Jenny, we're going to ask you to go to the front and the panel, Ricky, as well as -- okay. The panel with the Threats to the Election Official. Jenny Carroll is going to be moderating and Ryan Arbon, the sheriff from Weber County, Utah, Ricky Hatch, a clerk from Utah, Weber County, and our Vice-Chair, and Chris Walker, a county clerk from Jackson County, Oregon.

So, we'll turn it over to you, Jenny, as our moderator. And thank you, again, for taking on this responsibility.

MS. CARROLL:

Thank you. So my name is Jenny Carroll. I do have the pleasure of moderating this panel. We're talking about threats to election officials. This is a particularly interesting question. Some of you may know the U.S. Supreme Court recently has taken up, in *Counterman v. Colorado*, a question of what true threats are.

Of course, what we're talking about today is going to extend beyond the criminal definition of true threats. As a criminal legal scholar, it's a thing near and dear to my heart, but I think it's important to stress that we're talking about both threats and harassment when we address this issue, and we want to think creatively about ways to solve it, so we welcome your feedback.

I did do a quick docket search to find out how many prosecutions were seen of these types of cases, and I also got a little bit of help from my friend at the DOJ to confirm this. There

have been 12 federal prosecutions of individuals accused of threatening election officials. Three have resulted in pleas. There are three state prosecutions that have gone forward that I was able to locate with regard to allegations of threats or harassment against election officials. And of course, there's a great variety among the states in terms of what qualifies as a prosecutorial offense.

With me today, and just to let you know how the panel is going to work, we're going to hear from folks on the panel, and then we hope to have time for questions and feedback from you all.

So I have Ryan Arbon. He is the sheriff of Weber County, Utah. He has worked in law enforcement for over 25 years. He is going to be presenting alongside of Ricky Hatch.

Ricky Hatch, of course, is the Weber County Clerk and Auditor for the State of Utah. Prior to being elected as the Weber County Clerk or Auditor, he had worked as an information systems auditor and consultant. He also serves as the chairman of the election subcommittee for the National Association of Counties, and of course serves on our Board of Directors, so welcome.

And then we have Chris Walker. She is the Jackson County Clerk. She has over 28 years practical experience in both elections and recording programs, and she brings an exuberant approach to the citizens of Jackson County. She indicates that she views her role as the county clerk as the guardian of the people's voice, and



her priority is to have objective, fair, and impartial performance of her duties.

So with that, I'm going to turn it over to Ryan and Ricky.

MR. HATCH:

Thank you, Jenny, and welcome to our Polish designation. I was fortunate to live in Poland for 18 months. I lived and worked in Warsaw for Price Waterhouse, so pardon the horrible accent, but (Speaking Polish).

[Laughter]

[Applause]

MR. HATCH:

Okay. Let's talk. We're just going to talk just for a few minutes and then generate, hopefully, some questions. I am excited to hear as well from Chris.

First off, we're from Utah. Weber County is just north of Salt Lake. It's a red county, and if you've ever moved to Utah or come to Utah, it's a nice place to live. Before you even unpack your U-Haul, there will be cookies on your doorstep and invitations to dinner. That's just how it is.

[Laughter]

MR. HATCH:

But there's also an ugly side, like there is anywhere across the country, and these are threats that were received both by

neighboring counties, as well as my county, just in the past couple of years. And so there is a need. There is a concern among election officials, including my own, who, on a Friday night, didn't dare leave the office for a couple of hours until we had the sheriff's office come and help them.

And so there's a need across the country, and we want to talk real briefly about how our departments, the sheriff's and the elections office, partnered to help address that need.

Our solution was, we need to partner. We needed to team up. We both share very similar processes, similar goals, where we serve the public. I am -- to quote Tina Barton -- tasked to make sure that everybody can vote and the sheriff is there to make sure that I'm safe as well as the voters and observers and everybody. And the key is communication. And the more we work together, the more effective we can be.

We follow the five steps of the Commission for Safe and Secure Elections. This is an organization that was created a little over a year ago to help partner and foster this coordination among these various offices, to make sure that things are done properly and safely. And really, for these five, the most important one is starting with friendship, or at least respect. Sheriff Arbon and I have known each other for probably about five or six years now,

and get along. I'll let him talk on it for his side, but I get along with him quite well, and I don't find him annoying at all.

[Laughter]

MR. HATCH:

But the key thing is we have a relationship. We talk to each other. And when we started seeing these challenges come up, I called him, and we had several great discussions about some of the concerns. And we said, well, let's take it a little farther. Let's set up a meeting and have a discussion amongst law enforcement and elections, to see what else we can do to help solidify this. And it was at that point that we went ahead and set it up and decided to send an e-mail. The e-mail went to, obviously, my elections director, to our county attorney, to the sheriff, to our state elections office, and then CSOC had a facilitator of Tina Barton, who was very helpful. And we invited them to a meeting.

The cool thing about this, I tend to think small. Sheriff Arbon tends to think big, and he said, why are we limiting this just to our county? This is good stuff. Let's expand it. And so with his suggestion, we expanded that out to about six or seven neighboring counties, and this became a regional meeting, where we invited both county- and city-level law enforcement to come and participate as well as their attorney's office and the election officials.

I just realized I've been talking nonstop. Do you have anything you want to add?

MR. ARBON:

I do. Thank you, Chairman, and the Board members. I appreciate this opportunity to be here to speak today. Thank you very much.

One thing that Ricky was pointing out is the first key part of this is discussion and having a professional friendship, if you will. Utah, I think, is the 12<sup>th</sup> largest state. We only have 29 counties, and so some of our counties are very large and covers a lot of territory, and hence the word territory, a lot of you can imagine that sheriffs and chiefs like to own their own territory. And so sometimes the sheriff being involved or the state involved can be a really large challenge.

The Wasatch Front, where most of the population is, is, you know, between Utah County and Weber County. It's about a million and a half or two million people there, and so there's a funny term with the sheriffs of Utah. There's the more moderate sheriffs, or the ones that deal with the problems we have today, and then there some sheriffs that are in the southern state, and they handle business a lot different than we do. A lot of old school, but I do admire them. They are very Constitutional-minded.

But back to this, what we discovered on this regional meeting is -- so in our county, the sheriff plays a pivotal role. We're kind of seen as from a lot of it, as Ricky said, it's a red county, and so there's a lot of red people there. And in their view, the elections and other issues can be viewed through a window of Left versus Right, and you guys know the problems that come from that.

But what we discovered, when we made this as a regional thing, is the sheriff may be the election official and he's in charge, but they want to do things their own way. What was interesting is we never saw any of that. We saw individuals that thought, you know what, this is an election thing. Sheriff, you know what you're doing. You take care of it. If there's any problems in my city, you come handle it. It was pretty fascinating, and I wanted to do that.

Law enforcement does not get trained in our academies to handle election laws. We just don't, and they should be, or they should, within the office, during the election time, be aware of these laws. And with us, we were trained and ready for that.

MR. HATCH:

Great. So we decided to put this event together. We had key presenters. We brought in, from out of state, our CSOC representative, as well as Harold Love, who represented from a law enforcement. He came from Michigan. And they talked about that this was a national issue, not just something that was local to Utah.

We had our state elections director present as well, and really, one of the main goals was to have him go through some of the key controls in elections to help assuage some of the fears that our attendees might have, some of the chiefs of police or other sheriff deputies, that our elections really are secure, and that we care very much about having secure and safe elections and accurate and well-controlled.

So we had law enforcement there. We had county attorneys. We had, of course, our elections, but we also invited other key stakeholders, including the FBI and, you know, the SBI state counterpart. The Department of Homeland Security, we had officials there from the Department of Homeland Security. And we wanted to make sure that our state county association was represented and involved and aware, and so we invited the CEO of the association as well.

The agenda was fairly simple. We wanted introductions. We wanted to share the history, and especially important was understanding each other's operating environments. And so, I spoke, as an elections official, to law enforcement, talking about the kind of environment that election officials work in. And then Sheriff Arbon, as the law enforcement, spoke to election officials about the kind of environment that they work in.

And there were so many similarities and so many overlaps. You deal with people who were passionate about the subject. You're very constrained by legal issues and requirements, and so it was really eye-opening for each side to hear what the other side had to deal with.

We shared the key information dates, contact information. We'll talk about that a little bit. We'll give you some examples on that. And then we spent quite a bit of time agreeing on boundaries and expectations. This was really eye-opening and kind of important. We'll talk about that a little bit. We had our county attorney's office lead that discussion, and it really was very much a roundtable kind of participatory information. Then we had Q&A and wrap-up, and of course, we gave challenge coins out, because that's like candy for law enforcement. They love the challenge coins.

[Laughter]

MR. HATCH:

This is one of the documents that we provided. So we gave, to every law enforcement person there. We said, here are the key dates of the upcoming election, whether the public's invited or not, the locations, so that they knew kind of what key things would happen, because it's not clear, unless you're inside elections, that

elections aren't just one day a year or even one month a year, but there's a lot of stuff that happens beforehand.

We also provided a contact sheet to every attendee that provided the elections information, contact on a county level as well as each location. We have drop boxes in every city, and so we provided the name and e-mail and phone number of each city recorder, including our vote centers and contact information there.

And we will pass this out. Let's just go ahead and pass that out. We created a pocket guide. This was with the help of CSOC, which is unique specific to our state, and it's a summary and a compilation of all of the election laws in the State of Utah. And it's simple enough that it's something that officers could include on their visor or in their pockets, and they could have a quick, ready reference to the election law, which, you know, is probably not the very first thing that they read when they get certified and start working.

[Laughter]

MR. HATCH:

And that was something that was quite well-received. They asked to get it electronically so that they could distribute additional copies to the various deputies and other law enforcement.

MR. ARBON:



Yeah, if you don't mind, Ricky, I'd like to add to that. One thing that was really key for this pocket guide, as I mentioned earlier, we don't train on election laws. You know, how many feet can you be from where you cast your ballot and where can you be according to the location of the front door? This was a clear guide of what those rules and laws are so we can enforce them.

The other thing that was really awesome -- Ricky alluded to this -- but right now, the election officials in Weber County are in pure harmony. It's wonderful. We all respect each other. We all need each other, and it really helps. And in this process, we had it set up, not only in pocket guide, but we also had the designated county attorney, his phone number, so he was on call any time. If we'd get into a sticky situation, he was ready to help us with whatever we needed.

MR. HATCH:

Thank you, Sheriff.

So we went through some what-if scenarios. We ran a very small, informal, table-talk exercise. We discussed a few threat scenarios and then looked at the relevant election law that was there. Surprisingly or not, it revealed that it's kind of a complex environment, and as the sheriff mentioned, there were some jurisdictional questions. You know, the sheriff is responsible for all cities within the county, but there were chiefs of police there that

said, you know, yeah, it's within my city, but I kind of don't want to deal with it. And then there were others that said I absolutely do want to deal with it. And so it was really interesting to see the changes or the differences among the jurisdictions.

And this was just one example that we read through. You know, a person's standing in the doorway of a vote center, and Utah law says that I, as the election director or the county clerk, I don't have the authority to remove them, but the sheriff does. And that was just another interesting thing. And that's what we want to do is find out where is that line by which I have to go over to him for help or vice versa where he can't help and he has to rely on me. And that was a really helpful discussion.

As far as wrapping up the event, it really was just the starting point. The key was to start the communications and to keep those lines open, and it was a good event.

Now, we'll just talk real briefly about our involvement with law enforcement during our post-election audit, because this is a crucial piece. We invited our entire Board of Canvass to participate actively in the post-election audit. And Sheriff Arbon is one of the alternate Board of Canvassers, and so we invited him as well. Plus, he had received several challenges or concerns by citizens who felt that the processes that the equipment had been hacked or the process we were doing were not very good.

MR. ARBON:

And they said this was corrupt. The vote cast system, I must be there. I must seize it and take it over and do the count myself. And I have no idea how they count the system, so I would probably screw it up for sure.

[Laughter]

MR. HATCH:

And I'm glad they went to him. They felt comfortable enough to go to the sheriff and that he felt comfortable enough to talk to me and say, okay, here are some of the concerns that we've received. Let's take a look. And he came and actually participated in the audit. He was one of the auditors of the system.

And I crafted an e-mail that I gave to him that he later sent to each of the individuals who requested that he be present, requested that he audit the system, and we can talk about what happened, what he saw, what he did, and I'll let you talk to that.

MR. ARBON:

Can I add to that, Ricky?

So, in my business, you guys know we have language: the way we say things, the way we do things. You have your language as well. So I said, Ricky, I need your help. Craft something that I could take and then transform it into this is something from the

sheriff. This is not something that was just copy and pasted from Ricky. So it was very simple.

I think I received nine or ten e-mails, urging the sensitive material, that I need to intervene, and so I went and participated in the audit. I mean, this was great. It was thorough. I mean, law enforcement, for any of us to take any action, there's got to be a complaint. There's got to be some suspicion or probable cause. We never saw any of that, but what I gathered from it is all those e-mails, I think, I believe 90%, based on when my staff looked at it, weren't even from Utah.

MR. ARBON:

Right? So who's involved, right? Who's coordinating all this and trying to go after it? That's okay. But what I was happy to do, as an elected official, is to respond. That is my due diligence, my responsibility, and I want to.

So in this e-mail, I laid it out carefully, and I made it simple, like it came from the sheriff. And I broke it all up, and I said, this is what I saw. This is what I did. This is what I believe is right. And I sent it back. One person responded with thank you. No one else did.

So you wonder if it's just an attack just to try and disrupt or cause problems, but I'll tell you what. It was awesome to see Ricky's language and able to change it and have this, but also

shows the sheriff is doing his due diligence. And I did. I was participating. And I was just thankful for that opportunity.

MR. HATCH:

And I think those that expressed their concern, at least the one that responded, felt comfortable knowing that this process had been vetted. And that's really it. I really appreciated having the support of the sheriff. We had bomb dogs sniff our vote center out in the morning before election day. It provided tremendous comfort to the staff who were there.

Utah is primarily a vote-by-mail state; although, we do have in-person voting as well, and so we had about 100 poll workers there on election day and really appreciated the comfort that his staff provided. He loaned a couple of his officers there, who were in plain clothes, who were basically directing traffic, helping with the line, and there to provide a lot of comfort to me, knowing that if something did happen, that we were safe.

MR. ARBON:

Can I add one thing, Ricky? I get asked this a lot, since I've been out to these conferences, just how do you get along with your election officials and people you work with? And honestly, the quick answer is I can threaten them and throw them in jail, but that's not how it works, right?

[Laughter]

MR. HATCH:

He's tried that a couple times.

MR. ARBON:

But I want to make sure I carefully say this, not to brag or anything, but one thing that's cool about Weber County is, in my work with all the sheriffs in the state, there's so much contention with the commissioners or there's so much contention with the treasurer. And you find out why, and it just seems so juvenile, candidly.

And so one thing that I love about Ricky Hatch -- is when I got elected about five years ago, he was already in office -- it was an agreement of, like, I knew Ricky had needs. I said, Ricky, what can I do to help you? He knew I had needs. He'd say, Sheriff, what can I help you? And typically, we get territorial. This is mine. This is yours. Stay away. We know what we're doing.

But eventually, we need each other, and so that's how you see it with all of the election officials is you start off, no, you may not be able to help with anything, but what can I help you with? In fact, I even opened up my facility to tours, and all these election officials have never seen a jail, and every time they come through, eight out of ten times they say things like, I had no idea.

I need these individuals, because in my county, we have about 1,200 beds, and I need to do jail expansion, and I need a

team. And Ricky, I want to give him the information of why I need a new jail or an expanded jail, because people are going to ask Ricky, because he is the clerk auditor. Is this something he needs? And he can speak firsthand, and I don't want to have him get the opportunity, well, the sheriff just sits there, and he's just angry at everybody. I don't know if he needs one or not. I've removed that, so he can respond to the public as an election official should do.

Thank you.

MS. CARROLL:

All right. So I'm going to turn it over to Chris, though to be clear, we're not saying we need to expand jails to fill them with election officials.

[Laughter]

MS. WALKER:

Well, I'm jealous. We have about 230,000 residents in Jackson County and only 300-and-something jail beds. It's really problematic. And I'm not saying to jail voters, either.

[Laughter]

MS. WALKER:

So thank you for having me, and welcome, everyone. Thank you to our colleagues from Poland. I'm glad you're here to join us.

First of all, just to clarify, we did a lot the same as what Ricky did and the sheriff. I had gone to associations, and we have

conferences, and the SSE presented and talked about the need for maybe getting your local law enforcement involved in creating this open dialogue, the conversation, and of course, anything we do as an elected official is about the relationship, and I think that, to me, is key in this whole process. Everybody here's probably had somebody cold-call you and try to sell you something, or you know, just off the street. You're like, well, I don't know this person from Adam. What separates them from a person that you have forged a relationship with is that relationship. So I think that the number-one key in all this is that relationship-building.

What I did is we did a lot the same. I found some things in your presentation that I'm adding to my list to add of people to invite to the next time that we sit down for next year with our local law enforcement group.

But for the sake of this conversation, I did reach out to our sheriff, because we have a very good working relationship, and I mentioned to him what my thoughts were about let's open this dialogue up and bring others in so that they can be a partner in what we do to provide not only security for us, as elections administrators, but also to show that we have a secure environment for our voters as well.



So he was just overwhelmed. He said, this is a great idea. So he said, listen, we have a local law enforcement luncheon we do every quarter, and he said, this would be a perfect opportunity.

So I was pleasantly happy that we not only had our local sheriff and a lot of their higher-up personnel at their office, we had the local FBI representative onsite. All the municipalities were there. The Oregon State Police had representation. Our local ESO, the Emergency Services Operations were there, which is also a piece of it that could be involved. We had Josephine County, Jackson County, Klamath County all that were in our region as well, along with the marshals. The Federal Marshal Service was even there. So we had a really great representation from local law enforcement. All those mutual-aid communities were there.

Simply, what I did, just like Ricky, we stood up and talked about the conversations. Here's where I'm going. I'm not asking for you to all sit on drop sites or to sit at our office 24/7 during the elections, because what one person might look at and think, wow, this is a safe and secure environment, another person could feel intimidated to vote, because depending on their experiences with law enforcement, depending on their experiences in the world of the courts and all that.

So there's that fine line between security and intimidation, and we have to be mindful of all of that, because I have a faction of

people who call me and say, you need a deputy or a policeman at every drop site 24/7. And I say, well, that's kind of a Catch-22 there, so again, one thing we have to be really mindful of.

I simply went up, introduced myself, let them know that elections now are designated to DHS and CISA as critical infrastructure and fall under the government's facility sector/elections infrastructure subsector just to give some credence to why we are making this ask.

As a side note, we did receive a very serious threat actually after we certified the 2020 election, and it was written in probably eight- to ten-foot lettering, with a big, white roller brush in our parking lot: votes don't work; next time bullets. And so that is kind of what spurred us to think we really need to not only take, in the world of cybersecurity very serious, but wait a minute. We've got this whole other issue that we just take for granted, our physical security, which is one thing that we really hadn't thought about. I mean, we do think about it, but it really hadn't been pronounced in our minds.

So after we went there, we did a lot, again, what Ricky did. I gave them an update from the Oregon TIGER Team, which Oregon was one of the first in the country to establish. We call it the TIGER Team, and I'm fortunate to be on that Board. It is the Threat Information-Gathering and Election Resources Team, including all

the agencies I just spoke about, but also the Department of the Military, Secretary of State's office, county clerk representation, any agency that you can imagine that would have to do with physical, possibly cybersecurity in the State of Oregon.

And we have monthly, if not twice-monthly, meetings, depending on the urgency. So first things I did was just sit down and give them a threat landscape update. Now, most of them are already getting this information, because through the State Sheriff's Association they get it, but a lot of things, you wonder if that kind of -- not that it breezes over, but it goes over the top of the head, because they have so many other things on their plate, and that's nothing bad about the sheriff, but you have how many things you're looking at.

So just gave them a brief threat landscape update and then made the ask. This is what we need from you. We need you to partner with us, to ensure the physical security, not only of our buildings, but the physical security, especially now at those ever-controversial ballot drop boxes that we've had, which had really no look at them in the past, and now, all of a sudden, the accusations of fraud at those ballot boxes, which is something new to us, because in Oregon, vote by mail has been around since the '80s.

Our first vote-by-mail election was conducted in 1981. Drop boxes in our state have been around forever. Now, all of a sudden,

usually it was the USPS that came out for a while that, oh, they're removing boxes. They're taking and removing sorters leading up to an election. Well, it was just bad timing. It was a normal part of their business structure.

So back in, what was it, 2016, that was the controversy. Now, in 2020, of course now it's all these drop boxes. So we took time to sit down with them. They asked questions. They were very engaged, even asked substantive questions about the processes and procedures, some of the things we do, redundancies built into our processes, and I was welcome to answer those questions.

But ultimately, in the end what I did, after we had the conversation, and I had prepared each of them a packet, and it had multiple items in that, and I will change that based on some of our conversations, but I provided the Know Your Rights as an Oregon Voter, which was also posted on every ballot drop box, official ballot drop box. I put in a law enforcement frequently asked questions, to answer some of those questions they may have. I put in the drop site schedules, not necessarily for public view, so they knew when our regular pickups were going to happen throughout the election cycle, the drop site locations, as Ricky did as well.

I put in an Important Dates for the Future document, to show these are the key dates for us for deadlines and what we're leading up to, certifications, things like that. I put in the great Federal

Elections flyer that was provided to us, this guy here. So they knew that there are resources at the federal level as well. A non-confrontational techniques flyer, which of course I don't have to tell law enforcement, but for this sake, we're talking voters, not, you know, somebody who just robbed a bank or committed another crime, as well as our emergency action plan. I sat down with my staff, and we came up with, hey, here's some scenarios. How are we going to react during an election if these things happen? And I can always make this better, so that's the great part about having this conversation is we're going to learn from these things.

So in the end, it was a hugely beneficial conversation, one that we should have had a long time ago, but quite frankly, when things are out of sight, they're out of mind, and until this heightened sense of security issues, both physical, cyber, et cetera came about, it was something that we just had taken for granted.

It also let us know the importance of our pretesting of all of our systems, making sure that we are fortunate to have a backup generator that basically 100% of all of our things operate even if we have no power. We check our backup internet provider. We check all of our systems to make sure, which was also a huge part of this as well, and how are we going to respond to those.

So that, right now, is about all I have here. Oh, also a piece of this was also our protective security advisors from DHS, which

kind of gave us a footprint based on their report of how to move forward with further protecting ourselves in that realm.

So that's kind of our story and where we got. I didn't have any visuals, but I thought it was important to pass along what we did around there, so thank you.

MS. CARROLL:

So, at this point, we want to open it up to questions, and I'm going to exercise a slight moderator's prerogative and ask the first question. It was something, actually, that, Chris, you brought up, and I'm glad you did, and I think it's come up in some of the other conversations we've had around the table of striking that balance between keeping those who are doing the work of elections safe, but also promoting voting, not intimidating potential voters, and also not intimidating citizens who do want to be involved and want to be aware of what's going on with the elections and do feel, and I think we would all agree, have some interest in the outcome of these elections and want to make sure that they're proceeding in a fair way, so that balance between needing to keep folks safe and ensuring access and not having a chilling effect.

If you all can speak a little bit to how you struck that balance, that would be great.

MR. HATCH:

For us, we kind of view those as almost completely separate and not even competing interests. For us, it's super crucial that everything that we do in elections is open to inspection, to public inspection. And we feel that that's important, whether the person sitting and observing thinks that I'm a total crook, I still want to welcome them there and have them view that process. I don't want to push that back at all. That's crucial to public confidence.

Similarly crucial is keeping my staff and our election workers and the voters and those observers safe, and I firmly believe that you can achieve both of those without conflict.

MS. WALKER:

And on our end, we've been very open. We have the program for the observers. We allow them onsite, inside, to be able to observe the processes. But one of the things we do let them know, we welcome you. We want a transparent process, but we have to follow the laws and the rules, but our observers also have to follow those laws and rules. We do get a lot of people say, well, you're doing this. You're doing that. You know, where are the hidden ballots that you insert in all those thousands of envelopes when we're not here?

[Laughter]

MS. WALKER:

And there does have to be a certain source of trust with that, but I remind them that everything we do is under 24-hour motion-activated cameras. You know, between the audits, we do all of the ballot-tracking worksheets, the things that have to follow those ballots, what goes through the centralized voter registration, showing that they've tallied their ballot, has to be what went through the tally equipment, minus, of course, any -- believe it or not, we have people that turn ballot envelopes in, sign it, they get credit for voting, no ballot in the envelope. It just floors you. But again, the transparency of it's hugely important, but we require them to follow the rules, just like we have to follow the rules.

I explain that, especially when I get a naysayer say, why do you do this, or this doesn't make sense, and why can't you do this? Why can't you hand-count and do all these? Well, when I took my oath of office, I swore to the Constitution of the United States, the Constitution of the State of Oregon, and the laws thereof. Good, bad, or indifferent, and whether I agree with it or not is not the point. The point is we have to follow the laws. If we cease to do that, then society does not exist or function. So I try to remind people that whether you like it or not, whether I like it, it is the law, and this is what we have to do.

CHAIRMAN MOORE:



Jenny, just so you know, we have time for about one or two questions. We have to leave in five minutes for the photo.

MS. CARROLL:

No worries. So maybe we can take questions, and then we'll let the panel respond to the questions, so we can maybe get two in and then --

CHAIRMAN MOORE:

I've had a burning one, if I could.

MS. CARROLL:

Oh, please. Let's hear it.

CHAIRMAN MOORE:

And I promised I wouldn't do this through the meeting, so this jurisdictional question, Ricky, that you raised was intriguing to me, because I know that jurisdictions have different jurisdictions, all right? You have the county, state, local, and now even federal government jurisdictions coming in with some type of oversight, so how is that actually done?

And the second part is just whether or not that matrix includes, you know, the other election integrity groups that are out there who do election protection, because they're a part of that troop lineup, too, around election day. Do they fit into that matrix, or are they sort of separate and apart for that?

MR. HATCH:

That's a good, burning question.

[Laughter]

MR. HATCH:

For us, the discussion really centered around both centers and as well as our central processing. So Weber County, about half the county is unincorporated, where the sheriff is the lone law enforcer, but the rest are within cities, including the ballot processing center and both of our vote centers that we have.

And the questions that came around the jurisdiction were, within those cities, what the officers want to do, how much involvement they wanted in elections-related situations, and then you just coupled that with the fact that we had drop boxes in every city in the county as well.

And in Utah, drop boxes are considered polling places, so you have the 150-foot electioneering rule around drop boxes, and you could have voter advocacy groups that could go out and potentially film people dropping their ballots off or possibly intimidate.

So it was an interesting discussion we had, and we had different responses among the cities, and I don't know that we had a canned solution, but the discussion itself was actually quite helpful.

MR. ARBON:

I believe, too, Ricky, we had a couple of groups that self-appointed to take security of the ballot boxes to park by and make sure everything goes just right.

[Laughter]

MS. WALKER:

We did as well. We had that as well, and so we were constantly getting questions about, hey, these people were filming me. This guy confronted me, because I had my husband's ballot with me, wanted to know why I had two ballots, those type of issues. And in Oregon, you can do that. You know, I had never heard the term ballot-harvesting until recent time, because we've always done it that way.

We, as well -- the jurisdictional part wasn't -- we gave away that law enforcement frequently asked questions, and again, I wanted them to be very broad, but they rose to the occasion. I told them, just on your regular patrols, make a heightened sense of just driving by, patrolling. You don't have to sit at that box, but at 8:00 election night, when we closed all those ballot boxes, I wanted my teams to know that they weren't going to be intimidated to close those boxes, either. And we had people trying, so it really helped to have law enforcement onsite with them, to make sure that that final pickup went off without a hitch. That was great.

You know, one of the things, too, just to follow-up, you know, history repeats itself. And I've been doing some reading. If anybody's interested in a book, it's called the Jackson County Rebellion that recently came out about a story of ballot theft and how a constable was actually murdered investigating ballot theft in my county. And I started looking back and the Jackson County Rebellion, it was in 1932 and '33. Well then, if anyone of you are aware of, you ever heard of the Rajneeshpuram that happened in the 1980s in Oregon, where the cook came in and took over a city of Antelope, Oregon, in Wasco County, and tried to take over county government by poisoning people at salad bars, so they wouldn't show up to vote at the polls. Watch Wild Wild Country, Rajneeshpuram on Netflix.

[Laughter]

MS. WALKER:

It'll tell you the story. And then, of course, ever recently, in 2016, the Malheur Wildlife Refuge and the trying to take over in that community based on elections. They shipped people in to try and take over. So I'm serious. History will repeat itself. This is not new. It might be a little different context, but everything we're going through now, we've experienced in the past.

MS. CARROLL:

So I'm assuming we're out of time.

CHAIRMAN MOORE:

Is there a burning question? I know I took some time, so --

MS. CARROLL:

Yeah, one thing I will say about your burning question, Greg, and this is where I'm going to play super-dorky criminal law professor, which is not what I ordinarily play, but cross-jurisdictional issues are very common in criminal law, so you often have multiple jurisdictions in play, and I think that what we've heard here, right, make sure that people are talking to each other so that you have some determination of who actually has jurisdiction or who wants to exercise primary jurisdiction is a good way to handle it, and I think Chris has given us a great reason to avoid salad bars, also.

[Laughter]

MS. CARROLL:

So there's all sorts of tips now.

CHAIRMAN MOORE:

All right now. So we have to do the photo, and we have to come back for the other two panels, so if we could first thank our panel.

[Applause]

CHAIRMAN MOORE:

And there's a lot, of course, that I think we can do informally, particularly to the sheriff and others, who have done this on the ground. We would love to get some more thoughts.

But Sara's going to lead us to the place that we're taking the photo. We do need you to come right back up, grab some coffee or snacks, and then come back into the room.

MS. BRADY:

Yep. Break is until 3:15, so but yeah, folks can follow me. I have some EAC staff on the way. We're going to go down to the courtyard to take a photo. Outside's a little bit better, and then you can come up here, grab snacks, beverages, and we'll be back here at 3:15, okay?

CHAIRMAN MOORE:

Okay. 3:15. Thank you.

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[The Board recessed at 2:48 p.m. and reconvened at 3:17 p.m.]

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## **ELECTION AUDITS PANEL AND DISCUSSION**

CHAIRMAN MOORE:

All right. Thank you for coming back. And if we can get everybody's attention, thank you for taking the picture and being so disciplined about that.

We are now going to move to our next panel, which is the election audits with the discussion led by an outgoing member of the Board of Advisors, Larry Norden, who is the senior director of the Elections and Government of democracy at the Brennan Center. And Larry, we want to thank you for your years of service on this Board and for being a champion for voting rights at the Brennan Center all these years, so thank you.

[Applause]

MR. NORDEN:

That's very nice, Greg. Thank you so much. And great to see so many of you here in person and appreciate being asked to come here and be with all of you.

I'm to take a quick moderator's prerogative. I just want to mention something, because this poll, the Elections and Government team at the Brennan Center was behind this poll. There's been a lot of talk about it today. I wanted to mention something that doesn't have anything to do with threats to election workers. There's a lot that was covered in the poll.

One of the more interesting things, I think, for this body is that we asked about awareness of federal resources among local election officials. There's work to do is the big takeaway. A lot of election officials, particularly the newer ones, are not aware of the resources that are available to them. Of the resources that we

asked about, though, the EAC's toolkits came out on top, clear that election officials want that information and that certainly the officials who have been around longer are aware of them. I think there's work to do on the newer ones to make sure that we get that to them, but a real compliment to the work that the EAC has been doing.

So this panel is here to talk about audits, something that, until recently, maybe only nerdy folks, like us on this panel, really spent much time thinking about, but obviously has had a lot more interest recently. So we've got, you know, a great group here that has a lot of experience in working on election audits, so I will make some quick introductions and then just allow each of the panelists to get in, and we can ask questions.

So furthest to my right is Kim Smith, who is Senior Elections Subject Matter Expert in the EAC's Clearinghouse division and the Alternative Designated Federal Officer for the EAC Standards Board. Prior to joining the EAC in 2021, she served as the deputy director for the Defiance County, Ohio Board of Elections.

To her left is Tim Bobanic -- did I get that right?

[Laughter]

MR. NORDEN:

-- who is the supervisor of elections in Brevard County, Florida, which is also known as Florida's space coast. Tim has 14 years of



elections experience and has overseen 29 elections in that time. Brevard County implemented the Clear Ballot, automated, independent audit system in 2021, and it has been used to audit 100% of all ballots and races for the last four elections.

And last, but not least, immediately to my right is Philip B. Stark, Distinguished Professor of Statistics at the University of California Berkeley, where he has served as department chair and Associate Dean. In 2007, he invented the Risk-Limiting Audits, RLAs, many of you, I know, have heard about, endorsed by the National Academy of Science, Engineering, and Medicine, among others and now required or authorized by law in about 15 states. That's amazing. In 2012, he and David Wagner introduced evidence-based elections and approached conducting demonstrably trustworthy elections. Philip has served on the EAC Board of Advisors since 2016.

So as I said, I'm going to allow each of our panelists to just dive in, and then we'll leave room open for questions. One thing that I'm hoping that one or all of you will cover is just the question of what do we mean when we talk about audits, why do we do them, and some of the challenges that we're facing.

MS. SMITH:

Okay. Hi, everyone. As Larry said, my name is Kim Smith. I am one small part of the greater Subject Matter Expert team at the

EAC, and I just wanted to kind of highlight some of the audit resources that we've come out with really since our team was stood up about two years ago, so kind of to frame a relatively broad discussion of audits through the lens of some of our EAC resources.

So first up, to highlight some of our, sort of, post-election audit specific resources, the first two that are listed here, the quick-start guides and the election management guidelines chapter, these are revisions of existing resources that we just published within the last year. And both of these are really meant to provide very introductory information on post-election audits. So for new election officials, as we all know, there's a lot of new election officials coming in, and then also members of the public who are newly interested in election administration concepts, they're really intended to familiarize those folks with the concept of post-election audits.

And then, for that more detailed, kind of deep-dive into post-election audits, both of these refer readers to our Election Audits Across the U.S. report. And this is really where you're going to get a lot more information about where specific kinds of audits are being conducted, when they're being conducted, and gives a lot more detail on, you know, the methods of conducting a risk-limiting audit or a fixed-percentage audit, automated audits, which I think

you will hear a bit more about as well, and just a lot of other considerations as well, very practical considerations for election officials, things like how to project-manage the audit, transparency, and how to make sure that your audit is a transparent audit, as well as really, really helpful maps. It's really easy to compare what is happening across the U.S. with the maps that are detailed in this report, which I think could be very important also for election officials, you know, as they get questions from their local voters about processes that are happening across the country, and it can really enable them to kind of speak to differences or similarities in their processes.

Then I also wanted to highlight, and there's a lot of words, but this is mainly to illustrate that we have a lot of resources, and these are the ones that I'm calling our audit-supporting resources. So I think we all have a sense that, to have an audit that is really reliable and trustworthy, it takes a lot more than just showing up on audit day, counting ballots, and saying, I met my risk limit or, you know, my hand tally matches what the tabulator said the results were.

So all of these are resources that we have that really go into sort of election processes and security considerations that really bolster and support the integrity of election results and then any kind of audit that is being done in a jurisdiction.

So again, quick-start guides and election management guidelines, those are really introductory on each of these concepts. I won't go into all of these in detail. I will spare you that, but many of the titles are pretty intuitive as well. And just to kind of highlight for a lot of election officials, especially new folks, it's kind of hard to conceptualize and, you know, you are taking things day by day, and you have your checklist, and you're trying to get from A to Z through certifying your election, so I think it's really important to kind of have this idea of what all you're doing throughout the election cycle and how, ultimately, it's going to really support your election results and then your audit. So I think all of these resources really do that and can kind of make it digestible for new election officials.

So all of these resources are available on our website, and I'm really looking forward to the discussion and getting all of your questions.

MR. BOBANIC:

Good afternoon. My name's Tim Bobanic. I'm the supervisor for elections for Brevard County.

A little bit of background about my county, we are the ninth-largest county in the third-largest state in the nation. You know, there's nothing controversial about elections in Florida.

[Laughter]

MR. BOBANIC:

You know, I feel like we have really come a long way since the 2000 election, and I truly think we are a model state now.

In our Brevard County, we have over 460,000 registered voters, and our audit procedures are mandated or dictated in statute, and Florida statutes 101.591 and administrative rules will dictate our audit procedures.

For the longest time, when I first started in elections, the audits were manual audits, and it was a random selection of one race, and then we had to audit between 1 and 2% of the precincts in that race. There was many different methods to make that selection. In an effort to promote transparency, we, in our county, would assign Bingo ball numbers to each of the races on the ballot, and we would put them in a cage and have a member of the public pull that random Bingo ball out, and that would be the race that we would select, and then we would spend the next, you know, day or two going through and finding all of the ballots that we have.

In my county, we have 171 precincts, so you know, especially if we're on a two-page ballot, and if I select a race that, you know, is on a card A of that first ballot, you know, we will spend probably more time going through and finding the ballots that we need for the audit than actually conducting the audit. And that's what was the case in 2020. We spent an inordinate amount of

time. It was our first election where we had a county-wide, two-page ballot. I don't remember the race that was picked for us.

And then after that, we kind of transitioned to the automated, independent audit. So the automated, independent was authorized and first used officially in Florida in 2016. There was a couple counties who piloted the program for a number of years. My friend and fellow supervisor, Mark Earley, is the one who really kind of pioneered getting automated, independent audits and Clear Ballot certified for use in Florida.

And once we did that, really, we saw a large number of counties jump onto the automated, independent audit after the 2020 election cycle, when there was so much doubt over, you know, the result of the election. In our county, we had numerous calls, and you know, we complied with every single portion of the statute for our audit, but it didn't count in the eyes of many, because we didn't audit and count the president race. That's the one that everybody wanted.

So when we switched to the automated, independent audit in 2021 and we implemented Clear Ballot, that allowed us -- in statute, the automated, independent audit requires an audit of 20% of the precincts in a race. However, it's actually more efficient and a lot more transparent the way we do it, which is we do 100% audit of

every single race, every single ballot, every single candidate. And we do that by, in essence, scanning the ballots twice.

So there's two certified vendors for use in Florida. We scan all of the ballots on our certified voting systems, and judging by some looks, I thought that was no possible way I would have time to scan the ballots twice. I was probably the biggest naysayer on the automated, independent audits when we first started this. However, it really helped actually streamline our process.

First off, it helped us track real-time ballot inventory. So as we're tabulating mail ballots on our certified voting system, our certified, automated, independent audit system, which the hardware is commercial, off-the-shelf, you know, scanners. It isn't a black-box machine that everybody suspects, hey, I don't know what's going on behind the scenes. And it also captures a ballot image of every single ballot. And we regularly, after the audit's completed, we will get a public records request for those ballot images, and we will give those ballot images out.

The automated, independent audit, the 100% audit that we do, it eliminates the need for ballot sorting. You know, we don't have to sort the ballots by precinct, which that was the big timesaver for us. So as we're processing mail ballots, we take them off the tabulators. We run them through.

In Florida, we have three methods of voting: vote by mail, early voting, and election day. For early voting, we would have the ballots come back that night. They would be secured in our tabulation room, and then, first thing in the morning, we would run those ballots through the automated, independent audit system.

Then, on election day, we would take all of the precinct ballots from election day, bring those back, and begin that process. And I think it took maybe two or three days, tops. In 2020, we, you know, had the pleasure of having a hurricane come through right during our audit period. You know, our Florida statute says that we have to have the audit complete by the seventh day after the election by 11:59 p.m. certification of the election, so you know, there's no room for error on that. We really were able to get it all done.

And you know, by having the automated, independent audit, our workload is predictable. We know every day, from early voting, how many ballots that we are going to have to audit the next day, and we will run them through. And what I really like about it is once the ballots are run through, you know, this process is not taking place starting after the certification of the election. We are authorized, in Florida, to run the ballots and kind of conduct the audit as the election's happening. So when we get down to



election day and after election day, all we're running through those is the election day ballots.

And the great thing is, once they're run through the audit system, they're placed in sealed containers, and we don't ever have to handle the ballots again, you know; whereas, if you're doing a precinct sort and so forth, you know, you have to run the ballots through multiple times, and here's the one that are in the audit. Here's the ones that are not in the audit.

In the 2022 general election, which was our largest that we had, we had over a half a million ballot sheets cast by voters and over 7.9 million ovals. That's individual votes or ovals. And that's a statistic that a lot of times people don't realize when you hear the calling for hand-counting of paper ballots.

[Laughter]

MR. BOBANIC:

I find it hard to believe, you know, that a hand-count of 7.9 million ovals -- first off, I don't think we'd have enough time to do that before Christmas and after an election.

In our county, of those 7.9 million ovals, we had an accuracy rate of 99.992% between the two systems. It was a phenomenal result, and every election that we've conducted, we've had that high of an accuracy rating between the two systems.

It's also great because when we're processing mail ballots and we have, you know, tens or hundreds of thousands of mail ballots, we're able to do a reconciliation. You know, if my opening teams have given me 10,000 ballots, I tabulate 10,000 ballots, but then I'm also running them through my automated, independent audit, and I should still then have 10,000 ballots.

So it'll tell me if I'm going to have an issue where, you know, a poll worker made an error and didn't feed a ballot through properly on the tabulation machines, so it helps us to identify any issues or problems that we might have, instream, right during the election process, not after we've certified.

I will say that, you know, Florida, we have a very engaged election integrity committee, a group of people, citizenship, and I will say that they absolutely love what Brevard does. We were the subject of a lot of scrutiny in 2020, and by the time 2021 and 2022 rolled around, we were receiving letters from that same group, saying that we were the model county for the state and everybody should be working.

I think there's about 34 counties of the 67 that have the Clear Ballot system. We are waiting for a state certification to go through to finalize some new hardware, and it's my understanding that it's the Secretary of State's goal to have all 67 counties hopefully one day on that.

So with that, I will answer any questions, or we can hold those until the end.

MR. STARK:

First, I want to apologize for wearing the mask. I've actually been hospitalized --

CHAIRMAN MOORE:

Mic.

MR. STARK:

Thank you. Sorry. I've been hospitalized with infections three times in my life and spent four-and-a-half months on IVs, so I'm kind of especially cautious, so forgive me.

The other thing I'll apologize for in advance, many of you have been in a room with me before. I'm often the bad smell in the room. I'm going to try not to be that bad a smell today, but we'll see how I do.

[Laughter]

MR. STARK:

So I want to start with just a brief taxonomy of election audits. There are a number of kinds. One kind, it helps provide affirmative evidence that the reported winner has really won, despite whatever might've gone wrong in election, and something always goes wrong in election.

Two things that are in that category that really need to be used together are compliance audits, which establish whether the paper record of the votes is trustworthy, assuming it started trustworthy in the first place, and then risk-limiting audits, which rely on that vetted paper trail to be able to confirm outcomes, check outcomes, and correct them if they're wrong, in a way that the maximum chance that you don't correct a wrong outcome is strictly limited. So the risk in a risk-limiting audit is the chance that you don't correct a wrong outcome before it becomes certified and final.

Another category of audits is root-cause analyses, and I'm going to talk about a root-cause analysis in a little bit of detail, because I think it's a fun story. Another category of audits can find particular kinds of failures but can't provide affirmative evidence that the reported winners really won, and most statutory audits are in that category, and Tim's wonderful audit is also in that category. It can detect some kinds of problems in tabulation, but that's different from providing affirmative evidence that the reported winners really won. I'm not saying it isn't valuable, but it isn't my, you know, number-one category of audit.

And another thing that's in that same thing is applying risk-limiting audit procedures to a paper trail that hasn't already been established to be trustworthy. And all the things Kim was talking about was the right column on one of those slides, showing all of

the things that go into ensuring and establishing whether the paper trail was trustworthy, because if it isn't, tabulating it perfectly doesn't necessarily give you the right winners.

And then there's fishing expeditions, and here, I think I'll just shut my mouth there, rather than making too much noise. I'm so sorry. That was there. So those are the categories.

So now, I'm going to talk about a particular audit that took place in New Hampshire in 2021. It was in the aftermath of the 2020 general election, and this is the original artifact, or a photo of it. There was a state representative contest. It was a vote for four contest. The four republicans beat the four democrats, but the runner-up democrat was within a small number of votes of winning and requested a recount.

So the original votes were tabulated electronically, and then the recount was a manual recount by the Secretary of State's office. And what happened, if you see that row there, 297, 299, 303, 298. The republican candidates' vote counts all went up by about 300 votes. Now, it's normal, in manual recounts, for vote counts to go up a little bit, because people catch voter intent better than machines do in edge cases, but what's weird is that the democratic runner-up, St Laurent there, lost 99 votes. And that's strange. It's especially strange that four people would gain votes and a different person would lose votes.

So this was a bit of a mystery. New Hampshire had no provisions for audits whatsoever. The legislature actually passed legislation to authorize an audit of this particular contest and this election. And according to the terms of it, the Secretary of State and the State Attorney General would pick an auditor. The town in which this took place would pick an auditor, and those two auditors would pick the third auditor. So I was the third auditor. Harri Hursti was the one picked by the state and Mark Lindeman was the one picked by the town.

So what happened here? They reserved a secure facility. This is in the New Hampshire Army National Guard Pembroke Readiness Center. This has got, you know, armed guards, barbed wire, et cetera, card-key access to everything, surveillance all the time. Cameras were set up to do 24/7 surveillance of the audit room and the audit materials the whole time the audit was underway. There were two interruptions of that, which sparked all kinds of conspiracy theories. There were live observers there. The livestream had, I think, about four cameras.

Every single piece of paper, like every ballot was on camera when it was being tabulated, and the tally sheets that the auditors were using for the manual tabulation was also on camera. And the data entry of those tally sheets into the spreadsheet was done using Google Sheets, so the whole world could follow along. There

were separate log-ins for everybody who was doing data entry, so that things were attributable. You could tell who typed in what and so on.

Only sworn election officials touched the ballots or the machines through the re-tabulation. A lot of effort was spent on chain of custody, inventories of things, checking seal numbers, et cetera, counting the individual ballots. First step was writing a unique identifier on each ballot and then taking a high-resolution scan for evidence preservation and to be able to track things through the entire audit process.

The law required us to run all the ballots through all four tabulators that were originally used in the election, even though, in the election, some went through each of them separately. We imaged all of the memory cards. We did forensic investigation of the programming on the voting machines, et cetera, to make sure that it matched the code that was supposed to be installed on it, et cetera. We did forensic examination of the ballot paper, including microscopic examination and using a micrometer to measure its thickness to make sure the stock was the right stock. Used fiberoptic cameras to inspect the interior of the scanners, and everything that we did was posted to the web daily. All the artifacts that we generated were available to the public essentially in real time.

So this is the outcome of the 2020 hand-count, the 2021 hand-count, and they're basically spot-on: a difference of four votes. Then the machine counts on the four different machines. And you'll see the machine counts really varied quite a lot. And this is kind of a clue that there's something going on that maybe needs an explanation.

This was a little bit of a telltale. In the original contest in 2020. The undervote rates varied quite a bit across machines. And the machine number two that had a 19.3% undervote rate turns out was the machine that was used to process the vote-by-mail ballots, the absentee ballots.

[Laughter]

MR. STARK:

So there's a clue about what might be going on. So it's going to take a second to load. This is a superposition of the scans of all of the ballots that were cast in the contest, the front side and the back side. That big, red scrawl is all of these handwritten identifiers superposed with each other, so that's people's handwriting on 10,000 ballots approximately.

So now the interesting thing to note -- I'm going to stand up, I think, for a second -- is these --

CHAIRMAN MOORE:



Hey, Phil, use the mike over here so we make sure it's captured.

MR. STARK:

So just see these lines. I'm trying to draw your attention to that. Okay. So if you look at the one on the left there, there's a bunch of lines in the bottom that go through Kristi St. Laurent's vote target. So the lines are where the ballots were folded. This is a shadow generated in the scan by where the folds in the ballots were, and a lot of them go through the target of this runner-up democratic candidate.

So why was that? It turns out that that line is not where the score line is on the ballot where it's intended to be folded. You know, they have a score line that weakens the paper, so they'll fold naturally when you send out the absentee ballot, and it's a little off from that. So why did that happen? Well, it turned out that they had unprecedented demand for absentee ballots, and to save time, they borrowed a folding machine that they normally use for sending out DMV renewals.

[Laughter]

MR. STARK:

And the folding machine ended up folding the ballots in a place other than the desired crease area. So this is now a view under a microscope of the fold in the ballots, and it's a little

speedbump. The one on the right is a ballot that was actually cast in the election. The one on the left, there were blank ballots left over, and we did some experiments with the machine to try to see whether we could get it to fold in the same way that they were folded when we were sent out, and we reproduced them very well. So it looks basically the same.

So this let us do a numerical experiment of folding groups of 75 ballots with different vote patterns, running them through the machine, and seeing whether if there was a fold through Kristi St. Laurent's vote target, would that be incorrectly interpreted as a vote for her.

Now, the reason that this kind of makes sense, the reason that we suspected this was going on is suppose someone voted Republican across the board, all four Republicans, and there was a fold through Kristi St. Laurent's vote target and that was interpreted as a mark. That would generate an overvote and none of the Republican votes would count.

All right. Conversely, if the ballot were not fully voted in that contest, and in particular Kristi's vote target wasn't marked, and there was a fold through her vote target, that would add a vote for her. All right. So this could account for a hand-count reducing her tally and increasing the four Republican tallies.

So we did the experiment and ran ballots through in different orientations, and this is basically the number of erroneous votes of overvotes that were generated by the folds through these ballots. It's a very, very high number. So this was something where we had people who were there, public observers, did the marking of the ballots. Everything was counted. Everything was visible. It was very participatory.

So then the question is, okay, so we've documented that this can actually happen, but does it happen often enough to generate that discrepancy in the votes? So here, I've run some image-processing software, based on some stuff that Harri Hursti had previously done, to identify -- basically wrote a voting system that could pick up vote marks and pick up folds in the ballots and categorize them according to where the folds were. So there were about 600 that had a -- I don't know if you can see that in the image, but there is a fold through Kristi St. Laurent's vote target, and all four Republicans were voted for.

You notice that the ovals are offset from each other on one side. The Republicans and Democrats don't line up. The idea is so that you don't think that they're running against each other, pair by pair, that there's two different slates. So that's why the fold goes more often through one candidate rather than others.

So there are about 600 that kind of fit the category that would generate an overvote that would take votes away from the Republicans. There were about four that would've generated an overvote because the fold went through one of the Republican's vote targets for a fully marked Democratic ballot. There were about 260 where the contest was under-voted, and you would get a spurious vote for Kristi. Sorry, I know I'm out of time here. And then there are some small numbers in other categories.

And some of this actually affected the gubernatorial contest as well, generating overvotes in the gubernatorial contest. There were about 230 like that.

I did not get a very favorable response from some members of the audience. People made a little video, accusing me of treason, saying I should be behind bars, I got death threats, assemble the gallows, things like that, for my role as a statistician.

[Laughter]

MR. STARK:

I'll shut up now. I've been advancing this but not advancing that.

[Laughter]

MR. NORDEN:

Thanks, Phil. That was fascinating. And as a reminder, and probably the people in this room don't need it, but that the

undervote and overvote data is really often a clue if, when you have extreme numbers, that something's gone wrong. It reminds me of, in 2010, we saw in the Bronx, looking at election results in New York City, and we saw in the Bronx, in one polling place, huge numbers of overvotes and knew that something had to have gone wrong with the machines or the count in some way.

I'm curious, and I want to open it up to everybody else, but those were very detailed processes and transparency requirements for that audit. Who was responsible for developing those?

MR. STARK:

The three auditors, me and Harvey and Mark. We wanted an audit that would convince us, and we're hard to convince, so --

MR. NORDEN:

All right. I want to --

MS. SIMONS:

How long did it take?

MR. STARK:

Oh, so receiving inventory materials took something like a day. Writing identifiers on the ballots was something like a day or a day and a half. These were all volunteer, sworn election officials coming from that jurisdiction and neighboring jurisdictions within New Hampshire to do that work. Running the ballots through all four tabulators, I think that was also about a day or a day and a

half. A lot of the experiments doing the ballot-folding and so forth, that was a day's work. The forensic inspection, looking into the device, we found, like, lots of dust in the device.

It turned out that the scanners were full of dust, which we originally thought was paper dust, but it turned out to be this chemical compound that's used in the process to keep the printed pages from sticking together. So because of high-speed printers, the ink comes out wet, and you need something to keep things from sticking together.

Cleaning out the machine, the dirtiest machine and then running the ballots back through it vastly decreased the problem. It didn't completely eliminate it, but it vastly decreased it. So in all, I think it was about 12 days.

MR. NORDEN:

And that was for how many votes total?

MR. STARK:

Oh, it was just roughly 10,000 ballots, but you know, it would've been about the same for something larger scale, so --

MR. NORDEN:

Do we have other questions? Eric?

MR. FEY:

Oh, go ahead, Jim.

MR. DICKSON:

Yeah. Phil, if I heard you right, earlier you said you had some questions about Clear Vote.

MR. STARK:

Clear Ballot?

MALE SPEAKER:

Jim, say it again.

MR. DICKSON:

If I heard you properly, Phil, you said you had some questions about Clear Vote. Could you briefly say what your questions are or --

MR. STARK:

Sure. The concern is about image, what image audits do and don't show. It's not a concern about any particular vendor, but in general, scanner-based solutions have similar failure modes. Two different scanners can fail to pick up the same sorts of marks, depending on illumination, contrast settings, resolution, depth of color or black-and-white, and so forth. Also, unless you have done a thorough canvas ballot reconciliation, all of these sorts of things, showing that you tabulated sort of an arbitrary pile of paper accurately doesn't show that you got the election outcome right. You need to know that it's the right pile of paper and that nothing has happened to it.

MR. NORDEN:

I would say that's a general problem with -- that's a general issue with all post-election audits, right?

MR. STARK:

I completely agree. That's why the importance of a compliance audit before anything else, the importance of a rigorous canvass, and there are states that don't do a great canvass, frankly. There are other states that do an amazing canvass. So yeah, the question is really what have you established by doing the image audit, and you know, it should give you some comfort about the tabulation phase and that, you know, if you missed a box of ballots the first time, you miss the same box of ballots the second time, unless you found -- you know.

So there are things that it can show, but at the end of the day, it doesn't prove that the reported winners really won. It just shows that some particular kinds of failures didn't happen.

MR. NORDEN:

Eric.

MR. FEY:

Okay. Thanks a lot. Again, Eric Fey from St. Louis County.

Tim, I have a question for you on the Clear Ballot system. I have seen it demonstrated a couple of times, and you know, in our case, when we have done some post-election audits, sometimes, for particular races, for vote-by-mail ballots, we'll just use the



images, the scanned images to recount those ballots, and some of the observers have balked at that because it's not the actual paper ballot, it's an image of the ballot, and so I'm wondering if you've had any of that kind of pushback using the Clear Ballot system for your auditing.

MR. BOBANIC:

We have not had any pushback on that so far. Again, we've used it for four elections. A number of counties have used it. You know, our tabulation system also does have the ability to capture images, although not nearly as an efficient rate. The amount of storage space it takes up is extraordinary, and so therefore the media that is required to store those images is extraordinary as well.

You know, with the Clear Ballot, you know, when we give those ballot images out to people and, you know, these a lot of these, you know, separate, independent audit people, and I agree with Phil. It's not just auditing two stacks of paper. You know, you have to also take into account your reconciliation to your ballots cast, your voters checked in, which all of that's encompassed in all of our procedures. We're required, by law, to report our reconciliation of our voting history to our tab system as well.

You know, I've heard a little bit of, you know, the image didn't come from the actual system, you know, that you first

tabulated the ballot on, but not a lot. Overwhelmingly, we get a lot of positive response, you know. And with the Clear Ballot system, one of the things I really like is, you know, we can go down, and it'll produce a report that shows the least confident votes.

So it'll say, okay, in this race, show me what this system thinks is the least confident, and that's where we see almost all of our discrepancies is we'll see where a voter missed the oval. They filled outside or they circled the oval or put a checkmark or something like that. And you know, the tab systems are really designed to look in that oval position. And you know, folds on ballots is a hugely important process, and you know, we take great care when we're folding those ballots, you know. In our system that we have, if we have a fold that goes over an oval, it tends to kick it out as an ambiguous mark.

I recognize this system, the AccuVote. I wasn't even aware that they still used AccuVote systems.

[Laughter]

MR. BOBANIC:

But I've used those when I first started in elections. The system that we use now, the ES&S, the SA-50s and 200s, you know, any slightest, little, tiny mark will kick it out as an unclear mark, and then that goes to manual adjudication. So we've had great success with the ballot images.

MR. STARK:

Just to chime in one thing here, some of the vendors' scanners -- I won't name names -- but run at 200 dpi black-and-white. 200 dpi is kind of marginal on resolution, but black-and-white is really not adequate, in my opinion. You need at least grayscale, and the reason is, for black-and-white, anything that is below a certain darkness is just going to show up as white in the image.

And so, a light mark is erased from the -- it just never makes it into the scan. So it's not an issue of the tabulation software setting a different threshold to say I'm going to use a different darkness threshold. It's just not in there. It's just not in the image. And that was a problem in Georgia. They increased the illumination at some point, which I think reduced the problem, but it's an issue, and you know, personally, I would be pushing for at least grayscale images in the scans and probably higher resolution than 200 dpi.

MR. BRATCHER:

Why don't you want to name names? Why don't you tell us the name of that? You said you don't want to name names on that dpi problem. Why not?

MR. STARK:

I just don't want to start a fight.

[Laughter]

I just don't want to start a fight. It -- you know, specs are out there. I don't -- there may be more than one vendor. I don't want to pick on one.

MS. WALKER:

Chris Walker, Jackson County. So all hand-counts, everything in Oregon, recounts are all done by hand. We have to use the original paper ballots. That being said, we are a Clear Ballot user, and that is our central tally system. It's not just an audit function.

So my question is more so, so I understand you have polling places, but you also have absentee ballots, and we're 100% vote-by-mail. The problem I see is we have to do a huge amount of bipartisan teams adjudication on those ballots, because, especially lately, there's a lot of different groups out there that are encouraging voters to vote their mark, their bubble, and then to scribble through everything else on the ballot.

Oh, and people want to know why it takes weeks to certify. It was eight hours a day, every day, even weekends, to try to come to certification, because they were horrible.

So how would you do a recount of those paper ballots when they have not been adjudicated because it's a layover on the system. The original paper ballot remains as is for the hand-counts

and recounts, but I know that putting them through the system again, unless you adjudicate those, there's no way those numbers are going to match because of all of the -- I mean, you know the system, there's an overvote column. There's possibly undervote so that you can go back through and see the least potential marks, you know, those marks on that.

So how do you guys do that?

MR. BOBANIC:

So in Florida, the use of the Clear Ballot system was only authorized for post-election audits, not for recounts. In 2020, it was authorized for recounts, but it hasn't been implemented yet in Florida. We're still waiting for a rulemaking process on that, so I don't have an answer as far as how --

MS. WALKER:

How you balance your numbers?

MR. BOBANIC:

I mean, we balance our numbers, and you know, again, it's a post-election audit, so in Florida, as long as there's not a greater difference than one half of 1%, that's the threshold that we have to meet in order to be considered a successful audit.

MS. WALKER:

Okay.

MR. BOBANIC:

Now, when we get into recounts, the state is still muddling through the rulemaking process on how that's going to happen, but as you know, with the Clear Ballot system, you do have the ability to bring that up, and you can modify those adjudications. We would do it on a big screen, you know, in front of our --

MS. WALKER:

Us, too. Monitors.

MR. BOBANIC:

-- in a public setting, in a publicly noticed meeting, where you can make those adjudications live, right there, in front of everybody.

MS. WALKER:

Right, because I was just wondering, because I know how we have to do that, and if you were using that system again to go through, you would see, for those numbers to match up, you would have to have those re-adjudicated.

MR. BOBANIC:

Right. And what I have come to realize, you know, and part of my concerns with using the automated, independent audit for the longest time was you have to get over the hurdle that when you count the balance a second time, there is going to be a difference. You know, there is going to be a difference, because voters don't mark the paper ballots the right way. They don't follow instructions.

You know, it says fill in the oval. I can put a sign in every voting booth. I can have pictured instructions. Someone's still going to draw outside the lines or give me a nice, little note, telling me how they feel about me on the ballot, so --

[Laughter]

MS. WALKER:

Or don't follow directions.

MR. BOBANIC:

Or don't follow directions, exactly. So, you know, we deal with that, you know, in every single election, but it's given us that level of confidence, you know, that no race -- and you know, we have small elections, small municipal elections as well in Brevard County, and that one half of 1% could be one or two ballots, you know, in a small, little city race or a special district race or something like that. So far, we've not hit that threshold, but you know, like with Clear Ballot is we can then pull up that race, and we had to look at every single oval and see, okay, here's, like, the least confident.

MR. NORDEN:

So I'm conscious of the fact that I think we're out of time, but maybe just a couple last questions. I know people have been waiting patiently, so Ricky and John.

MR. HATCH:

I didn't have a question, just Chair Moore stepped out to greet the representative who's coming, so we can continue until they come in the room.

MR. NORDEN:

Okay.

MR. HATCH:

Mr. Fogarty?

MR. FOGARTY:

Thank you very much. John Fogarty from Chicago, Illinois.

And I do have a question for Mr. Bobanic. And, you know, I think you touched on it a bit, but it occurs to me that if there was an election contest or a recount situation where a candidate wanted to initiate it or needed to initiate it, I assume there's a statute that allows that in the State of Florida.

MR. BOBANIC:

Actually, in Florida, there's not. So in Florida, a recount is triggered by any race with less than one half of 1%.

MR. FOGARTY:

Okay.

MR. BOBANIC:

So that's kind of our magic number. So a recount's triggered if the difference between any two candidates is one half of 1% --

MR. FOGARTY:



Okay.

MR. BOBANIC:

-- and that does a machine recount, and the machine recount will then kick out the overvotes and undervotes, and if the difference is less than one quarter of 1%, then you do a hand-count of the over- and under-ballots.

MR. FOGARTY:

Okay.

MR. BOBANIC:

So that's the statute as it's laid out.

MR. FOGARTY:

Okay. Got you. In Illinois, it's a much more robust opportunity to contest anything and --

MR. BOBANIC:

Yeah, and trust me, we had everybody knocking down our door, asking us, hey we will pay for whatever recounts and so forth and everything --

MR. FOGARTY:

Yeah.

MR. BOBANIC:

-- and it's just in Florida statute.

MR. FOGARTY:

Very good. Thank you.

MR. HATCH:

Mr. Palmer, did you have something else?

COMMISSIONER PALMER:

Yes. This is Commissioner Palmer, EAC.

For Tim Bobanic, you mentioned in some of your comments sort of the accuracy when you compared the two. You know, you mentioned what hand recounts, and a lot of election officials are facing calls for hand recounts. Could you describe how you think this technology sort of makes that a much more accurate process than hand recounting?

MR. BOBANIC:

Certainly. I will tell you that the 2020 general election -- I've had my share of recounts. You know, I survived the 2018 recounts in Florida. We had three statewide recounts, and our county had a local recount as well. We had United States Senator, we had Governor, and Commissioner of Agriculture.

And the interesting thing is Florida hadn't had a statewide recount since Bush versus Gore. So it had been 18 years since we had to overcome that.

Yes, it was quite an ordeal. And two of the races went to a manual count. Two of the races were under one quarter of 1%. In our county, we did not have Clear Ballot at the time. Had we had Clear Ballot at the time, we would have gotten to the point where

the recount was called and hadn't been authorized, and we're still going through that part of the statute. We'd be able to push a button, produce a report, and say, you know, here's the results from the automated, independent audit system and recount system, and here's the answer.

It took us about a week to go through and first run all the ballots through to sort out the ones that we needed. Three of them, luckily, were statewide, so they were on every ballot, but one local race was not, so we isolated those, and we kind of knocked that smaller, municipal recount out of the way. And then we got into the larger ones.

I will tell you that during a recount, especially when you're kicking out the overs and unders and having to produce those on the screens, I think we had 15 counting stations, where teams of two were there to hand-count the overvotes and undervotes, and we had four attorneys assigned to every table behind them. We had a room half this size that we conducted it, so it was a tremendous amount.

Now, I will say, you know, we were one of the only counties - - at least Brevard was. We were one of the only counties whose original, physical ballot count matched the recount exactly. We were actually noted in the Palm Beach Post, and that's one of my little bragging points that I love to talk about.

[Laughter]

MR. BOBANIC:

But having an automated, independent audit system would streamline that, because 90% of the work is already done. All of the early voting, all the mail ballots, it's already done. All you're doing is doing that election day ballots, and again, we knock those out in two days with four scanners. We actually have six scanners, but we're waiting for the next version of the hardware certification from the state, so we probably could've gotten done even quicker that time, and we would've been able to do it and produce ballot images that anybody could do all their independent audits, which they very much like to do.

MR. RITCHIE:

A little, tiny question: do you have a sense of that number, per thousand, of whose circle or check or X that the oval machines cannot count but are ballots?

MR. BOBANIC:

It's a very small number, but it certainly can be enough to make the difference in a race.

MR. RITCHIE:

Yeah. No, so but in Minnesota, it's between one and three. You know, we did three million, and in that, that's how we picked a quarter of a percent, because you have to do a recount if you know

that there's that many people whose votes were not counted that are citizens.

MR. BOBANIC:

Right.

MR. RITCHIE:

And so for us, we say it's zero to zero. If it were below a fourth of a percent, it's a zero to zero. But do you have a way to monitor what that number is and keep it in your mind? I mean, it's not like you have a system that could tell you what that number was each time, am I right?

MR. BOBANIC:

I would have to look at it, because every race, when I run that report that says here's --

MR. RITCHIE:

Yeah.

MR. BOBANIC:

-- my least-confident ovals --

MR. RITCHIE:

Right.

MR. BOBANIC:

-- it could be different for every race.

MR. RITCHIE:

It could be different.

MR. BOBANIC:

Yeah, so --

MR. RITCHIE:

But did somebody study it?

MR. BOBANIC:

Not to my knowledge, no, but it's certainly a worthwhile --

MR. RITCHIE:

Yeah. Thank you.

MR. BOBANIC:

You're welcome.

MR. HATCH:

I'm sure Philip would like to study that.

[Laughter]

MR. HATCH:

I have two questions, a quick one for Tim. When you scan the second time, do you scan that immediately after scanning the first time, or do you batch those up and wait and then scan all of the second pass all at the same time?

MR. BOBANIC:

So for the mail ballots, we scan those in stream, so we take them right off of our DSA-50s, and we put them right onto the Clear Ballot scanners. We run them, and we don't actually save the

batch on the 850 until we see that the same number of physical ballots went through both sides.

The early voting ballots, those are done out at remote locations. Those ballots come in. Those are run through DS-200 tabulators, and then they come back in, in sealed containers. We open those, and then we run those first thing the next morning every day.

And then election day, like I said, as soon as we get all those in, the first thing the next morning, we start running those.

MR. HATCH:

Great. And then, Philip, a question for you. So you spent, I don't know, a week and a half, several people working on an election with 10,000 ballots. Do you have suggestions on how that would scale to a jurisdiction of 500,000 ballots or a million?

MR. STARK:

So, I first want to point out that this was a root-cause analysis, not, you know, a risk-limiting audit or something like that.

I mean, if you have more ballots, you could have more election officials touching the ballots and counting the ballots, and you know, this parallelizes, you know, to some extent. So if you increase the staff when you increase the workload, you could keep things constant.

The part that didn't scale were things like -- we try to make sure there's only one thing going on in the room at any given time, so that the live audience and the people who are watching on the live stream could actually pay attention to everything that was happening and feel that, you know, they really were observing it. So things would often stop. For example, if there was a machine jam, everything stopped. You know, all of the machines would then be stopped. We'd wait. We'd go through, you know, out loud, the process of clearing the jam, you know, reading the instruction list and so forth.

So there are things that were bottlenecks that probably would've happened more frequently if we were doing more machines and also trying to observe the observability of the audit, the transparency of the audit.

The other things that wouldn't scale well, you know, it was one person with a, you know, grounding strap on his wrist and the right tool set and a microscope, taking apart the machines, and removing the memory cards and things like that, and wanting to make sure that only one of that was happening at a time, again for transparency reasons.

So it really is going to depend a lot on how transparent and observable you want it to be and your staffing.



In a different direction, if we're talking about something like a risk-limiting audit, where, you know, the job on audit day parallelizes very well. Different teams go retrieve different ballots for inspection by different numbers of teams of judges and so forth. There, I think things scale pretty favorably. There's actually -- I'll take a second -- a relatively new way of drawing the audit sample that makes it feasible or practical to audit very large numbers of contests at the same time. And one result is Orange County, California, which is the nation's sixth-largest jurisdiction, they had, in 2020, about one-and-a-half million voters, over three million ballot cards, 181 contests. They could've audited all 181 contests to a risk limit of 5% by looking at roughly two thirds of 1% of the cards, so well under 1%.

MR. HATCH:

Thank you. Chair Moore is back. Let's give the panel a thanks.

[Applause]

MR. HATCH:

Okay. I'd like to turn the time back over to Commissioner Palmer.

COMMISSIONER PALMER:

So hold on one second.

CHAIRMAN MOORE:

Thank you, all, for being patient and getting through that panel, and we're going to turn everything back over to Commissioner Palmer, who's going to introduce our Ranking Member of the House Administration Committee. And I'm happy to say I'm proud to be a recently reappointed member of that Committee, and we thank the Congressman for being here today.

Mr. Palmer.

#### **COMMITTEE ON HOUSE ADMINISTRATION MINORITY REMARKS**

COMMISSIONER PALMER:

Thank you. I'd like to thank the Ranking Member of the House Administration Committee for being here. Congressman Morelle represents New York's 25<sup>th</sup> district, which includes the City of Rochester and the surrounding area. Prior to being sworn at the end of 2018, he served as Majority Leader of the New York State Assembly from 2013 to 2018. In addition to his role as Ranking Member of the Committee on House Administration, Congressman Morelle serves on the House Appropriations Committee, where he sits on the Subcommittee on Commerce, Justice, and Science and the Subcommittee on Energy and Water Development.

Thank you for being with us, and we really appreciate you being here, and we'd like to give you the opportunity to talk to us a little bit. It's been a great day so far, and thank you for being with us.

MR. MORELLE:

Well, thank you, Don. Thank you, everyone, for inviting and giving me a chance to say a few words. And I apologize in advance. I have an appointment back up on the Hill that I have to go to, but I'm certainly hoping that this will be the first official part of a long engagement where we all work together to advance the interests of elections in America. So I'm really, really grateful to you.

Don, thank you, and you have testified in front of the Committee. I've already had a chance to interact a little with you, and I certainly want to thank Chairman Moore for helping get me into this and bringing us together.

I just have a few comments to make. I know you've got a busy schedule, and you've already been hard at work today, but I'm grateful to be here, and I do want to thank my friend, Tom Ferrarese who's just joined the group. I think he's the latest appointment, and Tom and I have a long relationship. He's been so critical to the administration of a fair and wonderful election

oversight as a Board of Elections Commissioner in Monroe County, where I am privileged to serve.

So I want to start by just thanking you for all the work that you do to bring fair elections and conducting elections in America. I had the privilege of meeting with several of the Commissioners, and our Committee heard testimony, and I have to say, it may be unusual, but I'm the Ranking Democrat of a Committee on which I haven't had the privilege of serving on before. So usually in Congress, you come to Congress, and you kind of work up and eventually become the lead member for your party. In my case, I'm brand new to it, so this has really been, since just the beginning of January, a new opportunity for me, and I'm really, really grateful. So coming to Committee meetings and hearing testimony from people for the first time has really been very educational, obviously, but critically important, and to hear about what the Commission does, and the Board of Advisors in particular, is something that's really important.

You know, so we will work pretty hard in the Committee at fulfilling our critical oversight of federal election administration, and I have to say I'm very, very concerned about what I consider years of baseless, inaccurate claims of fraud and insecurity in our elections and what I consider real attacks on the democracy. It's not really the election and the charges, which are proven false repeatedly,

about fraudulent elections and elections that people refuse to accept the results of, and I think it's done a great deal to undermine confidence in American elections.

And it's sort of interesting to me. Some of the people that are screaming loudest about Americans don't have confidence in election systems, to me, have been continued by those very people. So if you continue to say there's fraudulent elections and elections having been fair, that does undermine confidence, but it's hard to suggest that that's just some organic thing, that that hasn't been created by people who continue to make baseless charges.

And for me, and I suspect certainly for all of you, this is fundamental. If you don't have confidence, the American public, in the conduct of elections, if you continue to suggest that the outcome isn't what people believe it to be and we don't allow every single American to exercise the franchise, then all the other rights in the Constitution, in fact the Constitution itself, without that foundational aspect of belief that we all have in elections doesn't mean anything. It's not worth the paper that it's written on.

And I learn a lot of lessons from my father, and my dad, when I was growing up, a lot of lessons happened on a ballfield, which is probably a bad idea. My wife would be aghast if I used a sports analogy, so I won't use one, other than to say he used to have this lesson that he'd teach over and over, which is when you

win, you win gracefully. You act with humility when you win, but when you lose, you also act with humility and recognize that some days, it just doesn't work out, and you don't complain about it. You follow the rules, and the next time around, you go at it.

And I'll admit, I've always felt that way about elections.

There are a lot of elections that I've been in. I've been blessed to be a candidate many times, and I've been further blessed to win almost every election I've ever run in. But I've worked with a lot of candidates who haven't been as successful. I served as a Majority leader, as Don said, of the New York State Assembly, and so there are elections you wish the outcome had been different. You just accept it, and that's what America's about, frankly. That's the fundamental notion of our democracy is that you do that.

So what I really do appreciate, though, is the hard and dedicated work of people who work at election poll places, who are inspectors, who are commissioners, who are people who deal with election law, both at the state level and at the federal level. I mean, this is an enormous responsibility, and our elections don't function without those people. It literally cannot function without the hard work of citizens who typically are doing it for, you know, basically what would amount to no pay if you were thinking about it. I mean, I know in New York -- and Tom will give testament to this -- we're always trying to find ways and resources to bring inspectors to the

polls, make sure that they do the real work. You know, they're the heart and soul of this democracy, and so we rely on them. And when I see poll workers or inspectors or poll watchers being threatened, the notion that physical violence or insults would accompany their efforts to simply make sure that we conduct these elections in a fair way and that the most basic and fundamental part of democracy is people get to run for election.

I don't know why I ran for the county legislature when I was 24 years old, but I did. And yeah, I never worried, for a moment ever, that an election wouldn't turn out the way that the Board of Elections said it would. So I lost my first race, not that I remember --

[Laughter]

MR. MORELLE:

-- by 68 votes out of about 8 or 9,000. I don't think Tom was Commissioner then or I would've complained to him. But, you know, if I had changed the minds of 34 or 35 people, my career would've started two years earlier. I won my second election by 128 votes. I lost the first time I ran for the New York State Assembly. I lost by one tenth of one percentage point, and it was mostly because of absentee ballots, which changed the outcome of the election, but never, for a moment, and I mean this, as much as I might've been frustrated or disappointed or whatever it was, never,

for a moment, did I ever, ever, ever think that it wasn't fair. I just accepted it. And you know what? Picked up. Dusted myself off. Ran again. And each time, the only two losses I've had in my life are the county and state legislature and two years later won both elections, and I'm blessed now to be in Congress.

But it's fundamental to all of us that we accept it and that we do everything that we can to further and protect people who are doing it, who are volunteering, or who are working for the smallest of wages, because they believe in the system. And Congress does have a significant role to play in these elections, certainly around federal elections, but the Supreme Court has held the right to vote to be preserved of all rights, to my point. I mean, the Constitution's based on that fundamental right and the broad authority of Congress to legislate in this space under the elections clause of the Constitution.

So we clearly understand the role of local governments and state legislatures, but ultimately, the Founders and the Supreme Court have upheld the right of Congress to be the ultimate arbiters here and to make sure that this is fair. So we should be working every single day to ensure Americans have access to the ballot box. It's fundamental.

And as they said, it's not perfect. You know, we always use the phrase working towards a more perfect union, recognizing that



American democracy, from its outset, has had challenges, but we continue to work at it. All of you continue working. You're dedicating time and energy to make sure that elections are held.

And you know, I was here on January 6 in 2021, and frankly witnessed one of the great horrors of my life and was in the middle of it, and frankly, I think or I would hope for most Americans felt like it was a scene from a dystopian movie that couldn't really be happening in the 21<sup>st</sup> Century. And it did, and it came, at least in my mind, at the time, and I don't think I've changed my view of this at all, about to perpetuation that the election had been stolen or that somehow there was a massive fraud but avoided any evidence that suggested that was true.

So we have to continue to fight to protect the elections and the safety of election workers and voters. I mean, the idea that someone would be, in some way, hindered or in any way blocked from their right to the franchise, one that has been fought over for centuries. I come from Rochester, New York, so one of the things that's built into our DNA is Frederick Douglass wrote The North Star newspaper from Rochester, New York, and our airport is named the Frederick Douglass Greater Rochester International Airport.

The other pioneer who lived in Rochester was Susan B. Anthony. Her house stands not very far from where The North Star was printed.

So, you know, Susan B. Anthony and Frederick Douglass, in Rochester, New York, are revered citizens, but they're not important just to Rochester, New York or our region or upstate New York; they're important to all of us, because they helped expand that franchise which is fundamental to our work. So protecting that democracy, protecting the right of elections and voters and poll workers and the people who do this helps make sure America ultimately meets its promise.

So I think I'll say, as my editorializing, I continue to be so frustrated, because I think election workers, I don't care if you're a Democrat or Republican or Independent, I think people don't come to this work, you don't come to this work because you have an innate desire to stop people from voting or that you have any interest in making sure that the outcome is tipped one way or the other way by election workers or election officials or secretaries of state. I mean, people come to this work because they believe fundamentally in democracy, and when lies are spread or outcomes aren't accepted and there's no evidence to the contrary, I find that beyond frustrating. I think it fundamentally is efforts to erode the very democracy which we all hold so dear.

So you know, making sure we have information, making sure that there's transparency, making certain that the law is abided to, making sure that every American gets to exercise those rights,

those are the most important parts of this democracy. And as I said, without it, I can't imagine much else can go well in this country. It is foundational. It is fundamental.

And I mention not only transparency, but it's also about education around our election. Like transparency and education, in my mind, go hand in hand. We have to be transparent. People have to have confidence that the outcomes that you publish and that you certified are right and true, but we also have to educate people about their rights, their obligations. You know, wouldn't it be great in America if 100% of people who are eligible to vote voted? I don't know about all of you. I'm sure you feel the same way I do. I can't imagine not participating in an election.

I mean, my mother used to say when I was in second or third grade, the teacher would say, who would like to, and I would raise my hand. She said, you wouldn't even know what they were asking you to do and you were ready to participate.

[Laughter]

MR. MORELLE:

It's kind of how I feel about voting. I can't imagine my neighbors voting and me not participating.

So I know that happens, and people in my position and people in our world are always trying to encourage people, please vote. Please. Even if you don't vote for me, please vote. It's so

fundamental. And I think sometimes people find it maybe mysterious or mystique, and it's our job, collectively, to make sure that they're educated and that, again, we protect the system to make sure it works.

So being able to cast a ballot freely, being able to be a person that participates in the administration of that election freely, without any concern for their public or their personal safety without fear are things that we need to do, and we need to heed the call of state and local officials. And this is the last point I'll make, and then I'll get out of your way and let you do real work. Making sure that we provide resources to the states and localities to do their job is fundamental.

You know, there's a saying about, you know, budgets at any level of government that budgets are sets of priorities. You know what you prioritize by the amount of investment you're prepared to make. So if elections in my view and in your view, if they really are foundational, fundamental to American democracy, then the way to know that is how much we invest dollars in all of the systems necessary to protect people.

So I'm going to continue to be a huge advocate, not only as the Ranking Member on the House Administration Committee, which has the responsibility for the authorization of this, but I'm going to be a strong advocate on the Appropriations Committee,

where I happen to have the privilege of serving, to make sure that localities, that states have resources and partnership with the federal government to make sure that whatever criticisms are, let's put them on the table. Let's make this transparent. Let's make this work for the American public, and let's make sure that you have the resources to be able to train workers to be able to educate the public, to be able to attract poll watchers and people who are inspectors, et cetera.

And I know we use different terms at different places, so I'm getting caught up with the different terms we use outside of New York, but it's really important. And recently, Vice-Chair Hovland and Commissioner Palmer talked about educational tools that the EAC has developed for election officials to utilize, new programs the EAC is working on, such as the Field Services Program, the regular engagement of the Commission with state and local officials and other federal partners.

So, I want to make sure that we do everything we can, and my counterpart, I'm sure, Chairman Steil, will express the same commitment to this, I hope, this morning, and we're working in partnership, where we can. Some things we'll disagree on, but I hope we all agree that a need to invest resources in this and that you support your work is vitally important, and you do have a critical role to play in how we do this and make sure that we are

developing educational tools and guidance, and my hope that Congress will continue to support and bulge through those efforts and certainly not undercut or do anything that would impair your mission.

So the Committee's been keeping a steady pace of election-related hearings, probably more than I expected we would do, but that's good, examining the midterm elections, examining election observer access, and I think another hearing later this week on state tools to promote voter confidence. So I think and would expect colleagues on both sides of the aisle to continue this work, and I'm certainly going to be a full participant in the effort. And I will tell you, the House Democrats will continue putting forward what we consider to be critical pro-democracy policies: the Freedom to Vote Act; the John R. Lewis Voting Rights Advancement Act.

And you know, we did persevere and get through 2022 I think, generally, but more progress is needed to protect our institutions. And honestly, I do find it's a little hard for me to believe at times that here we are, in the first quarter of the 21<sup>st</sup> Century, and still sort of fighting about how people get to vote and whether we're going to invest in voting because it's so critical, and it's the better arc of 250 years of American democracy.

So I'm going to continue to persevere. I'd love to be a partner with you and to continue to support your efforts and

continue to make sure that there's transparency and education, that poll workers are protected, that voters are protected, everyone gets the right to exercise their franchise, because it's so critical to do.

And Mr. Chairman and all the members of this body, I pledge to you my continued support for your work and look forward to being a partner with you in the months and years to come. And thanks for giving me the opportunity to come and spend some time with you and tell you how much I appreciate your work.

[Applause]

COMMISSIONER PALMER:

Thank you, Congressman Morelle. We really appreciate the support, the EAC and the Board of Advisors. Thank you.

MR. MORELLE:

Thank you.

CHAIRMAN MOORE:

I also want to point out -- thank you, again, Congressman, for coming. Members of his staff are behind here. They've been with us most of the day, so if you do have additional questions, both Sean and Sara are both here. Wave your hand again so we can see you.

MR. DICKSON:

Sean and Sara, I'm blind. If, after we break, if I could speak to you briefly, if you could find me, I'd appreciate it.

CHAIRMAN MOORE:

So thank you all for being patient. As the Congressman walks out, we want to just update the schedule. We only have two items left on our agenda today. That is the final panel on public records requests that's going to be moderated by Mark Ritchie, and then we're going to finish this side of the table, which we're not going to leave you all out, so get ready to put your thinking caps on of what you hope to see come out of this meeting and give us a little bit more of your background. And then we're going to close the day, so we should be able to finish right about 5:00, so we're running a little bit late, but we should be able to do all of this in the next 30, 35 minutes.

So Mark is already making his way up, and there are two other members.

MR. RITCHIE:

We're going to be done by 5:00.

CHAIRMAN MOORE:

Okay.

[Laughter]

MR. RITCHIE:

The whole thing.

CHAIRMAN MOORE:

All right. Good deal.



## **PUBLIC RECORD REQUESTS PANEL AND DISCUSSION**

MR. RITCHIE:

This panel, I've had a preview. They're going to jack you up with how solution-oriented they are to something that I also experienced when I was Secretary of State, so I'm damn excited about this, and I want to just kind of jump in. Are you ready?

Howard got himself a jacket. I don't know where this came from.

[Laughter]

MR. RITCHIE:

I've got a question about this, but you're ready to go?

MR. KNAPP:

I'm standing between us and the bar, so --

MR. RITCHIE:

Correct. So, you know Howard is the chief election officer in South Carolina, lawyer, and active, active, active in his community and in life, and he gave us stories of how they worked to be prepared for that flood of requests for public documents that most of us shall nod your heads about like we've had this. So we're going to start with that store first.

MR. KNAPP:

Oh, okay. Sure. Well, I know I'll just start off and say that public records requests in South Carolina, they're called FOIA,

Freedom of Information Act, so when I say FOIA, that's what I'm talking about. This is not the sexiest topic in the world. I'm aware of that, but it is kind of the centerpiece of what we're going through in the elections sector.

I understand that distrust of government is out there. I don't think there's anybody here who can honestly say the government is batting 1,000 in the honesty department and has been for a while. You know, and I think as a citizen and a taxpayer, I think FOIA is vital to keeping our government accountable, keeping people like me accountable, and just understanding the people's business.

But what we started to see in South Carolina is kind of a weaponization and abuse of FOIA, which I know are strong terms. Some interest groups outside of our state have very small but loyal followings with our state. The national group will tell the local followers you need to FOIA this or that. Keep in mind, these national groups are telling their locals to ask for the same thing in different states. They'll all use different systems that have different laws, so we'll get -- and I'll talk to my counterparts in other states. We'll get the same request that Maryland gets or Texas gets or California gets, and it's not applicable to us at all.

And we respond to every single FOIA request, and so we'll go back to the requester and say, you know, we'll just need some kind of clarification, and they will have no idea what we're talking

about, which tell us that they did not know what they were talking about to begin with.

And on top of that, I have had some of these local activists in my state tell me, to my face, that they use FOIA to slow down the election process and to make, quote, election officials' lives hell, to the point that they quit. That's why we've had in South Carolina over half of our county election directors quit. My agency has seen over 70% turnover since 2020. So I'm not saying it's all due to FOIA, but you know, when I have a staffer here, 10% of his duty is supposed to be FOIA and 90% is elections, and right now, that's inverted.

So I think that FOIA is vital, extremely important to being a citizen, knowing what's going on and keeping your government accountable, but finding that medium, I'm not sure how to do that, but we're trying to in South Carolina.

I can go on, but I'm going to let you all talk.

MR. RITCHIE:

Our second speaker, Shane Schoeller, is the County Clerk in Greene County, a former member of the Missouri state legislature, Speaker Pro Tem and Speaker in the Missouri legislature. He also worked for somebody who's a real hero for me, Roy Blunt, who was a county election official and then went on to be a leader in all kinds of things, in everything from public broadcasting, which I work in, to

many things else, and so I'm jealous that he had the chance to work with him, but I had a chance to honor Roy at a big event here recently, and so I'm thrilled to have you here.

What they've done in Missouri to get in front of and be in a kind of proactive mood is very inspiring, and I'm just thrilled that you'd be here today to share that, because I know you've got some campaigning to do out there.

[Laughter]

MR. RITCHIE:

We're glad to have you here today.

MR. SCHOELLER:

Well, I'm honored to be here, especially as a member of the Board since 2015. And I was, you know, thinking about, you know, I was actually elected in 2015 and Senator Blunt then appointed me to this Committee at the time. And transparency's always been critically important to me, but boy, you really see it when you become a county clerk just how important that role is.

I can remember one of the first e-mails I received as county clerk was from one of the members of our local media, and he had sent a request, like, literally the first day I was there, wanted to know what the public records from our county were concerning insurance claims against our county and settled, citizen claims and lawsuit settlements from the year prior. Well, of course, I had only

been on the job for one day, so I had to call our county counsel to make sure we could respond to that request adequately.

And really, during the first couple years that I was in office, we did not have a large number of Sunshine Requests during that period of time. That changed in 2016, 2017, and one of the ways it changed was our state auditor at the time, she had been appointed. She sent out a request to local governments all across the state. It was counties. It was cities. It was schools, fire protection districts, and she happened to send it during the week of the August 2016 statewide primary, so my chief deputy who had worked for the office for countless years. As a matter of fact, she worked when Senator Blunt was county clerk there. She got the request and inadvertently, during the busyness of that week, put that request in the folder where the information was and filed that away.

So we get through the November 2016 election. I'm feeling good. On Thursday, I get a phone call from the media, why did you not respond to the Sunshine Request? I'm like, what are you talking about? I wasn't aware of it. And so that commenced us going through, looking to see if we could find the request, and we ultimately did find the request. And we found it in the folder where she had went to respond to the request the first time.

And so, I set about at that time to make a number of changes, first of all, if we get them in by mail, we would scan it in.

We made changes in terms of making sure we were on a timeline, because we're always good to respond to it in three days, but we wanted to make sure we had a clock to make sure we did that adequately.

And one of the things that really troubled me was a reach out to our state auditor a number of times to say do you have best practices standards, because it was my belief that most local governments were not not trying to respond. Either they didn't understand the Sunshine Law or they had hired people who were not familiar with the Sunshine Law. And you think about some of the smaller jurisdictions, like the fire-protection districts, smaller schools. People get hired. They have no training in terms of the Sunshine Law.

And so, what I did the following year was I put on a regional/state conference, where we taught for an entire day. Here's the Sunshine Law. Here's how you respond to it. We invited members of the media. We had a number of people come and learn best practices, because I felt like that is the best way to help people become informed in terms of being transparent and being accountable. And that was well-received at the time.

And so then, later on that year, in 2017, we had an election official in the county government that a whistleblower that worked for them had reported to, ironically, our state auditor at the time,

some actions that they felt like needed to be investigated. And so during the end of 2017 and almost all the way through the year 2018, I received countless Sunshine Requests from the local media. And I'm talking about spending countless hours where I was in there nights, weekends, going through, because one of the things in our state, you cannot charge for the time that you go through looking for closed versus open records. The court had determined in a decision that that should've been done before. Now you can imagine with e-mails, how are you going to do that, right?

And so now, they'll do e-mail requests where they'll give you a keyword search request. You have to go through all those e-mails to see if the response is. Then you have to determine whether or not they have any closed records. And what's ironic is this local election official, a friend of mine, however, he was very upset that I was not charging enough for the request. And long story short, he Sunshine'd me for every Sunshine Request that I had gotten --

[Laughter]

MR. SCHOELLER:

-- because he wanted to see if I had charged accordingly to what he thought that I should charge. So that was kind of -- and I was a

little frustrated, because at that time, we were actually conducting the November general election for 2018.

And so long story short, though, didn't have a whole lot happen over that period of time. And then last year, I was unexpectedly honored to received from the Missouri Sunshine Coalition the Sunshine Hero Award for the state, and there were two other individuals that were recognized for it: one a state media outlet, and another a private citizen. So that completely caught me off guard, and I just said, you know, that was the hard work of our office, because one of the things that happened during that period of years is we actually had to hire someone that part of their duties was just doing Sunshine Requests, because once 2017 happened in terms of that election official, a lot more people started examining what we were doing, and that's fine. I have no problem with it, but I could not spend every day doing Sunshine Law Requests, because that became a challenge in itself.

And what's ironic is last year, when I received that request, one of the challenges that had been presented to me and actually our election officials across the state, county clerks and election boards, is we had been Sunshine'd about the cast-vote record. And I remember in the fall of '21, the first time that I received a phone call about that, I was unfamiliar in terms of whether or not that was a public record, so we sought our counsel. Other entities



sought their counsel as well. It was determined that is a closed record for 22 months, per the federal law and state law, that those records are closed.

Well then last year, September early, was when those records become open, and I was president of our statewide association then. I had encouraged everyone not to destroy their records from 2020, because I said we have nothing to hide. Let's just be open. Let's be transparent.

But then, it was made known to me that part of the challenge with the cast-vote record is that it prints in the order of how people cast their ballot at their local polling location. And for those that are not familiar, the current generation of software and some future generations, it creates a record of every ballot that's cast into the tabulation equipment. And so from that, you can get that printed, and you can go through. My understanding it was created to see if there was an issue with the tabulation or the software, someone who is, you know, a programmer of software, the individual can look through that and potentially find the anomalies where the issue is.

Well, the challenge is if it prints out in the order of how the voters voted, some people, for example, tweeted out, I was voter #14 in my polling location. Well, you can locate that cast-vote

record and figure out how that person voted. Or if you know how the first two or three voters voted, you know.

So our statute allows us, our Sunshine Law, Chapter 16, allows us to go before a court of local jurisdiction to be able to get an opinion in terms of whether or not we can provide that record as is. And so that created a real challenge in terms of -- I even let the folks know when I got the director of the Sunshine Coalition Press Association. I said, by the way, I want to let you know we've got this challenge here and that I've got a record that is competing with transparency of the terms of the secrecy of the ballot.

And so, as you can imagine, it has invited some criticism from some folks, because they believe we don't want to provide it, but I believe, as an election official, especially an administrator, I'm accountable to the law, and it's not up to my discretion to determine what the law is if the law is not clear. So there's only two paths I can go to: either the legislature, which is a four-member. I would prefer the legislature to make that clear, but that was not an option available at the time, so we went to our local court of jurisdiction. I've put that matter before them, because either way, I would've benefited either to not respond or to have responded.

Either way would've been better than to go before a court in terms of some of the scrutiny we receive by people who were very frustrated that we have not provided this record. But I sleep

peacefully at night, because I know we're doing the right thing and that we always want to protect the secrecy of the ballot. As I tell folks for years, I want everything about an election to be known except how you vote. We want everything else to be open and transparent but keep the confidence of your ballot.

So that is an unusual situation that we're dealing with. We're open to the court allowing us to print that CVR record in order different than how the voters voted. If they allow us to do that, we would do that, but I can't make that decision for them myself, so it's an interesting time to be in the world of elections, because I think sometimes people assume the worst first. I tell people don't assume the worst first when it comes to your local election officials. Learn more before you make that decision, and so that's part of, I think, the reason why I was asked to be part of this panel is because of the case we have before the local court.

MR. RITCHIE:

Thank you so much. So in limited time, here's what I want to do. I want to see hands of questions, and then I want to call on you to get these questions in one bundle, and then I want to turn it over to our two experts, and then I want to get out of the way of the intros.

So questions? You stood up. I'm calling on you.

[Laughter]

MS. KAGAN:

All right. If no one's going to ask. So I have passed a bunch of transparency bills, but I think abuse of FOIA requests are ridiculous and dangerous and expensive. Are any of you aware of template legislation that has either been proposed or enacted that you think is a reasonable balance between transparency and reasonableness? And you know, that's probably not a legal definition.

MR. RITCHIE:

Great question. More questions, anybody? Yes?

MR. STARK:

I'm not an attorney. I'm trying to understand whether, like, the production of records requires the production of records in the same order in which they were created? Because you know, kind of shuffling the cast-vote records is an easy thing to do and removing timestamps and things that would otherwise identify, so I'm just kind of -- it's a legal question, maybe not for you.

MR. RITCHIE:

Another great question. Any more questions? You take that one. You take the first one.

MR. KNAPP:

Oh, fantastic. In terms of model legislation, there is none in South Carolina. I can say that when it comes to FOIA in South

Carolina, we put those questions before a court, and that is just the cleanest way to do it. Two of us in this room are involved in the same FOIA lawsuit.

[Laughter]

MR. KNAPP:

An activist group in South Carolina sued myself, my agency, and eight counties over cast-vote records, which you can and will be speaking about Mark, and for the same reasons, we've said no. What I have found has been helpful for me is when issues like this come up, I let all the stakeholders know: the Governor, the Attorney General, the Majority and Minority leaders of the House and Senate. I make sure I have as many fingers in the pie as possible so that everybody knows this is the issue, all their questions are answered, because they're going to get the same questions, and if somebody doesn't like my answer, they're going to call the AG, or they're going to call the Governor's office and to have them armed before the stuff hits the fan, I think they appreciate.

So having everybody on the same page is helpful. And I do want to say, as a plug for my agency, when FOIA became an issue, my agency started -- I mean, we've always been as transparent as possible, but I kind of took it up a notch. So my agency publishes an annual report of everything we've done the entire year, and this

is something that's readily available on our website, in a pdf form, and it also has voter registration statistics: who we removed, who we added, what were the demographic of those, et cetera. And then this is kind of the South Carolina elections A to Z in a very understandable way. A lot of our FOIA -- I shouldn't say a lot of our FOIA requests, but some of our FOIA requests were just trying to understand the system, the voting system, the voter registration system, how we do audits in South Carolina, which we do a lot of auditing, and it's all in here. And it's written in such a way anybody could understand it.

So in terms of model legislation with FOIA, I can tell you, I think I can say resoundingly that South Carolina is not interested in adjusting our FOIA statutes, but when there's issues, we just put it before a court. And then I get attorney general opinions. And I should've said that, I guess. In this lawsuit that we're engaged in, prior to the lawsuit being filed, I got an opinion from my attorney general about cast-vote records, and he agreed with me that they are not subject to FOIA. Now, a court could say otherwise, but having the attorney general on your side helps, so --

I appreciate the question, because I think Chris mentioned earlier when she was up here, and I share this with more folks more often. I swore an oath when I took office to uphold our federal Constitution, or U.S. Constitution, and our state Constitution. What

you simply propose is I would be altering a record. That record, I do not have the authority to alter a record independent, and if I begin to do that, here's what I see, because I've seen election officials do this. Well, this is in the best interest of the public.

Well, what does that decision look like ten years later, five years later when you take that decision and then you make another decision and you've never allowed the court of law or the legislature to address that? Because oftentimes, we know that statutes are written. I'm a former member of legislature. I know this well. They're not always clear, right? And that's when that conflict happens you have to wait and either let the court or the legislature clarify that, but it is not up to me to decide that, and I feel very strongly about that, because too often too many election officials take the law into their own hands for their own convenience, and I'm not going to participate in that.

MR. RITCHIE:

Let me ask all of you to thank our patriots here.

[Applause]

CHAIRMAN MOORE:

Mark, thank you for keeping that moving. Thanks to the two panelists as well.

MR. RITCHIE:

People came to me, during my recounts, and said to me in my face, I'm going to FOIA you until you're broken, so I feel personal about these two gentlemen giving us some solutions to this problem.

CHAIRMAN MOORE:

Thank you. Thank you for your time on this, Secretary.

So now, in keeping with Commissioner Palmer's request for us to all introduce ourselves and say a few words about what we anticipate, I'm going to ask us to finish that, and that'll be our final. We're going to end with the great Jim Dickson here, because he was the -- I think I started, so we're going to end with Jim. But Linda, I think you're next on the panel, and then we'll do some housekeeping at the end. But Linda?

MS. LAMONE:

Hi, I'm Linda Lamone. I'm currently the Administrator of Elections for the State of Maryland. I was appointed by the governor in 1997, and I'm retiring in September. Thank you very much.

[Laughter]

[Applause]

MR. CRAMER:

Isaac Cramer, I'm the Executive Director of the Charleston County Board of Elections in South Carolina. I'm here as an



appointee of NACo, and I've been on it for 30 days, so anyone got me beat? Newest appointee? 30 days? Who?

MALE SPEAKER:

Tom.

MALE SPEAKER:

Me? It's less than 30. Ricky, what is that? I think it's like three weeks.

MR. CRAMER:

What's the official? I want to win this one.

FEMALE SPEAKER:

You win. We'll just say.

MR. CRAMER:

All right. It doesn't matter.

MALE SPEAKER:

They barely made private plans for me. I think they had to jump off on everybody. Literally the last week and a half.

MR. CRAMER:

You got me beat. A fellow New Yorker, too. Kind of echoing what Ricky said this morning, I definitely value the room I'm in and the people that I'm surrounded from all across the country. It's an honor to be at the table and to be able to make this country better in election administration and the support that the EAC has for election administrators cannot be overstated.

And I think one of the challenges we face is the communication from the EAC to the local small guys, me, the counties, and I want to help be a megaphone for you all in the county administration world, because right now, we have so much we deal with on a day-to-day basis. I'm one of 46 counties. I'm one of the bigger counties, so I have a large staff. Other counties in my state have one or two people in their offices, and they don't have the resources to even go through the EAC's website and go through all the different tools and handbooks and all the resources, so really, I want to help communicate that back to my counterparts but also to other local jurisdictions across the country that face the same challenges we all do.

So just thankful to be on this Board and I definitely look forward to working with each one of you.

MR. FOGARTY:

So I'm John Fogarty still, from this morning.

[Laughter]

MR. FOGARTY:

Yeah, I just changed spots.

[Laughter]

MR. FOGARTY:

So it's nice to see everyone again.

[Laughter]

MR. HEBERLE:

Hello, everyone. My name is Rob Heberle. I am a career prosecutor in the Public Integrity Section of the U.S. Department of Justice, and for almost a year now, I have served as the director of the Election Crimes Branch in the Public Integrity Section, so this is my very first EAC meeting. Very honored to be here with you all, and looking forward to working with you.

MS. CARROLL:

So, hello. My name is Jenny Carroll. I am a professor at the University of Alabama School of Law. Before becoming a professor, I was a public defender, so I had the privilege of representing people who were accused of offenses.

I came to election work a little bit through the back door. In 2016, I was appointed to be the chair of the State Advisory Committee for Alabama for the U.S. Commission on Civil Rights. As part of that, they asked me if I would work with my Committee to do a report on barriers to elections following the Shelby County Decision. Alabama had rolled in several new election requirements and administrative rules.

After the Supreme Court's Decision in Shelby County, I figured, how hard can it be? I'm a lawyer.

[Laughter]

MS. CARROLL:

Two years later, we finally produced the report. It's about 600 pages. It's available on the U.S. Commission's website. One of the big things we did was, after taking testimony from election officials, we actually went into communities in Alabama and tried to figure out what was going on, on the ground. So the view from the ground is really important to me.

One of the big takeaways from the report, and this is something that we've heard a little bit about today, but I want to re-emphasize, there's a lot of talk about the importance of election integrity in Alabama and claims that regulations that had been put in place were designed to increase trust around elections, and there are also claims that it did not affect voter turnout.

And when we talked to people in the field, we found the opposite. We found that people had a lot of confusion about what requirements were in place that would allow them to vote. There was a lot of skepticism and fear about what would happen if they voted outside of compliance with these regulations. When we went to state officials and asked for data about the number of accusations of fraud that had occurred prior to the passage of these regulations, we learned from the Secretary of State's office that there actually had been zero accusations of fraud in Alabama, suggesting that concerns about integrity perhaps were misstated, which is not to say I'm in favor of elections that are not fair and

carry integrity, but it is to say that a lot of these regulations have huge impacts on who turn out to vote, especially among marginalized populations.

I've continued to work in the election field primarily among underrepresented populations, including incarcerated people and formerly incarcerated people. The notion of civic death that occurs in the United States when one loses the right to vote as the result of a conviction, or even if you remain emancipated but remain incarcerated, you often de facto lose your right to vote, so pre-trial detainees in the United States often lose the right to vote, even though they are still entitled to vote.

We did one study where we found, in most states, it takes approximately seven back-and-forth correspondence before an individual can actually cast a ballot if you're an incarcerated person. It's very, very difficult to have access to the ballot if you've been arrested, again, regardless of whether or not you've been convicted.

The argument we've always made to state legislators is that is undermining decisions that some incarcerated people ought to remain enfranchised, and of course, you know, again, I think there is a big debate in the country going on right now as to whether or not one ought to have a civic death just because you've been convicted.

The last thing I will say is when I wrote that report, I took a rather radical position, apparently, that the voting is a right and not a privilege. That was something that a lot of people pushed back on in that report. That surprised me. We've heard a lot of talk about voting being a right. I think it's important we protect that right, and if the government is going to impede that right, there ought to be an explanation as to why that impediment is necessary.

So that's me.

MR. INGRAM:

I'm Keith Ingram. I'm from Texas Secretary of State's office. I've been on the board for a couple of years now, and my hope for this body is that we will be able to work productively, cooperatively, transparently, and hopefully even synergistically with the EAC, as we go into the presidential election year, to inform the public and make sure that everyone at least has the opportunity to have correct information, whether they choose to access it or not.

MR. BRATCHER:

Kevin Bratcher, I'm the R that was appointed by NCSL to Senator Kagan's D, and we balance out, I think, good. I'm the House in Kentucky. I'm a state representative. I'm the House Chairman of Elections and Constitutional Amendments. And you know, we took a supermajority. You've probably heard that word

down in the southern states, and as soon as we basically cleaned up what I considered a lot of questions on elections.

All of a sudden now that we're the supermajority, we've got a whole new bunch. And I consider myself pretty well a conservative Republican, but I'm not nearly as far right as some of the things we're getting now. All of a sudden, I was looking around for a guy named Eric.

[Laughter]

MR. BRATCHER:

And --

MALE SPEAKER:

He was here earlier.

[Laughter]

MR. BRATCHER:

I was surprised at how many people actually really want every single ballot counted in a million-vote race. So I'm glad to be here, and I can see all of you guys in your states have basically a lot of the same issues we have in Kentucky. Thank you.

MS. IBANEZ:

Hello. My name is Hannah Ibanez. I am with the United States Access Board. I was appointed by President Biden last year, and I've been with the EAC only a couple of months. In my regular life, I'm an attorney. I was a public defender in the

misdemeanor and felony divisions in Florida. And I am senior trial attorney at Inner City Law Center in Los Angeles. We are based out of Skid Row, with a primary focus on connecting folks with housing, services, benefits, reconnecting Vets with the VA, and protecting tenants from evictions. We are the pilot program for Housing Defenders, if you will.

I am concerned with accessibility. I am here very, very gratefully. I'm excited to learn and meet all of you, and thank you for having me.

CHAIRMAN MOORE:

Jim Dickson?

MR. DICKSON:

I'm Jim Dickson. I have two disabilities: I'm blind and I'm blunt.

[Laughter]

MR. DICKSON:

I'm an organizer. I've been working in voting full-time since 1982. I was -- I'm appointed to this Board by the Senate Rules Committee, and I have served on the Board since its inception. I was the second chair.

I want to just tell two stories that happened to me that drive my concern about accessibility.



The very first time I voted, I had to vote with the aid of an election official, who, when I told her whom I wanted to vote for president, she said loud enough for everybody in the polling place to hear, you want to vote for who?

Thirty years later, my wife and I became the first couple to differ on politics.

[Laughter]

MR. DICKSON:

And when I told her whom I wanted to vote for, she said -- I will always remember this -- Jim, I know you love me. Now I know you trust me, because you think I'm marking this ballot for that idiot.

[Laughter]

MR. DICKSON:

I want to thank the EAC and the Board, because there has been huge progress in making voting and the secret ballot accessible to people with disabilities.

Beyond that, I want to thank all of you who are election officials and the election officials and volunteers around the country, because you are the guardian angels of our great country, and you deserve much praise and much thanks for all the crap you put up with.

[Applause]

CHAIRMAN MOORE:

Are you done?

[Laughter]

CHAIRMAN MOORE:

I don't want to interrupt. That's a hell of a way to end the meeting.

[Laughter]

CHAIRMAN MOORE:

Let me first, though, housekeeping, we're going to end tonight. Sara has offered to do something that's going to help us out tonight to get through our evening.

MS. BRADY:

So the EAC staff, downstairs in the courtyard area, where folks took photos, if anyone wanted to, like, meetup with people afterwards, they're holding just a couple of, like, tables and chairs down there, in case anyone wanted to be able to talk after meeting here.

MR. HICKS:

Cash bar. It's a cash bar. It's not an open bar.

MS. BRADY:

It's a cash -- yeah.

[Laughter]

MS. BRADY:

Thank you. Thank you, Commissioner.

MR. DICKSON:

Budget priorities.

CHAIRMAN MOORE:

Yes. By the way, Tom's room is 1115 --

[Laughter]

CHAIRMAN MOORE:

-- if you want to put it on the tab.

MS. BRADY:

And then, if I can also just remind folks that, so tomorrow morning, breakfast will be available from 7:30 to 8:30 a.m. in the same room, the Dunbarton Room just across the way here, and then I'll hand it back to you to talk about our meeting reconvenes.

CHAIRMAN MOORE:

Yes, the meeting reconvenes at 8:30. We have two, big presentations. The EAC Clearinghouse resource presentation. And then we're going to do two panels, one on HAVA at 20 years, and then we're going to do NVRA at 30 years, and I think we might do 'Doug' Palmer at 50 years. I don't know. We'll see.

[Laughter]

CHAIRMAN MOORE:

That's actually his joke. But at this point, all I have left to do is urge you to come. Thank you for staying today and being a part of this. Thank you for your patience while we got through the rest

of the agenda. It's been wonderful. We're just a few minutes late. Ricky, do you have anything else to add? I know Mark doesn't. He wants to get out of here. I need to entertain a motion to adjourn the meeting. Is there a motion?

MR. RITCHIE:

So moved.

CHAIRMAN MOORE:

Is there a second?

MS. KAGAN:

Second.

CHAIRMAN MOORE:

All in favor, say aye.

[Chorus of ayes]

CHAIRMAN MOORE:

We'll do a roll call vote now.

[Laughter]

CHAIRMAN MOORE:

Thank you, everybody. We'll see you tomorrow.

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[The Board recessed at 5:08 p.m. on April 25, 2023.]

## Wednesday, April 26, 2023

### MEETING RECONVENES

CHAIRMAN MOORE:

Good morning.

[Chorus of good mornings]

CHAIRMAN MOORE:

We're on the last third of our meeting, so this is great. Two thirds has happened already, so hopefully, everybody got a good night's sleep. I did not, so I'm telling you in advance.

[Laughter]

CHAIRMAN MOORE:

Yesterday was a lot smoother than today's going to be, I bet, but I just got some coffee, so that'll help.

But thank you all for being here today. I was waiting for Ricky to show up. He's around somewhere, and a couple people I know are running late, and I know some people have to leave early, so we're going to try to get through today as best as possible.

Today's agenda is brief. If you go through it, we should be able to wrap up before noon, well before noon, but the main item we're going to discuss today include looking back at some of the history of how we got here in terms of this agency and the role that we play.

Two areas we're going to cover this morning, first of all, we're going to talk about the EAC Clearinghouse and the importance of the resources that are being given by this agency to - oh, I'm so sorry, thank you -- and that's going to happen first, as soon as I finish speaking. And we have our two panelists. Thank you for being patient with us there.

And then, right after that, proceeding after that, we will have a lookback at HAVA. Twenty years. This is the 20th anniversary of the Help America Vote Act, and we're going to have some key players in that. Commissioner Palmer's going to moderate that section with Doug Lewis and Alysoun McLaughlin, our former chair, as well as Pat Leahy from the Senior Government Advisors and Public Policy of the EAC.

And then, we're going to take a quick break, and myself and Commissioner Palmer, we're going to moderate NVRA at 30. I'm one of those people, Jim Dickson and a few others around here were around when we had the beginning of the NVRA, but I'm going to go into a little bit of the history of how we got there. And it's an interesting story. I won't give you the full version, but you'll get the five-minute version. And many of you are being asked to chime in, and we're going to actually go around the room and hopefully have a few of you give reflections on the importance of that law and its viability in this current system that we're in.

And then, we're going to have a closing discussion and some cleanup items that we need to do. And then, afterwards, we're going to make some closing remarks, some acknowledgements, and then, we're going to adjourn, but that won't be the end of our day.

We are hopeful that many of you will be able to join the EAC at their offices, and we're going to be able to witness EAC in action. And I believe one of our actual Board of Advisors members will be testifying at that hearing, Scott Wiedmann, who is the Acting Director of the Federal Voting Assistance Program. Is that right?

MR. WIEDMANN:

Correct. Yes.

CHAIRMAN MOORE:

And you'll be probably asked to encourage people to come, but we want to do that early on.

[Laughter]

CHAIRMAN MOORE:

But the fact that one of our advisory board members is testifying is a really good thing, so we really encourage you to be there.

Is there anything else we need to add to the agenda before we sort of get started? Anybody want to add anything? Okay.

MR. CRAMER:

Could I just add, just as an invitation, a friend of many of us, Rodney Davis, is having a reception tonight for his new position at Cozen O'Connor, and he's invited anybody who wants to join 5:30 at the top of Charlie Palmer's, so anybody who's still here is welcome.

CHAIRMAN MOORE:

Well, thank you. Thank you for that.

Last night, after our meeting, we had an Executive Committee meeting, and we were able to go over yesterday's meeting, when we were actually sworn in as your officers for the year, so we want thank you for, again, that election.

I have a couple remarks, and I'm going to ask both Ricky and Mark if they want to say a few words. But I want to first thank you all for kind of unplugging from your regular life and coming here, making this trip. I know a lot of the work that you do is behind the curtains. You help build our democracy from there.

But in today's session, you're going to hear a lot about the legislative battles that we've gone through. You've heard a little bit about that yesterday. But campaigns are made up of rallies and ads and court battles and litigation and knocking on doors and all kinds of things, but we know that many of you actually do the real work of the elections, which is what happens after people cast their vote. And sometimes, people forget that that's one of the most



important things, so to hear about the audits and to hear about the things that happen to make sure ballots are counted properly is important. You'll hear me talk more about this when I go into the NVRA.

So it's good that we are here to help make sense of all of it and you make sense of all of it, and so the post-election period is something that I think is very important. We know that, many times, this kind of work is not very well paid, that budgets are never enough to do what you want to do, and there's never enough appreciation given to you, so I want to just, again, thank you for what you've done.

And this organization has been designed as a clearinghouse to provide guidance to the states and their work, and this Board is to provide guidance to the EAC, and so our primary responsibility is to give our four Commissioners and the staff the kind of expertise that we have and the diversity of our views. And so, we're here because we have different point of views from different perspectives.

I come from the activist community from the voting rights community, which is an important thing, and I can sit right next to a good friend who is an election official and a former Secretary of State. These are the kinds of people who make up this Board. Tom was on Capitol Hill when I first met him. Ben Hovland moved

all kinds of real estate on Capitol Hill when he was with the Rules Committee. And Christy McCormick, again, has been with the Justice Department and a lot of other agencies and brings a lot of expertise to this.

So there's a lot of good staff people and good commissioners with a lot of history, and 'Doug' Palmer [*sic*] has also joined us and been a part of this effort as well as our DFO and helped lead this effort, Doug at 50, of course. It's an inside joke now. I don't think we will be able to say it right.

[Laughter]

CHAIRMAN MOORE:

But thank you for what you've done. Thank you for our election. And I'll just turn it over to Ricky Hatch, our vice-chair.

MR. HATCH:

Thank you, Mr. Chair. The only thing I would add is, as Board members, you know, our role, as an advisory board, is distinct and spelled out, and I think it would be helpful for us to go over that in more specifics at another time so that we can know what we can do.

But think about ways that we can help the Commission. What a unique mix of backgrounds and experiences and representation that we can bring to the Commission to help them. And for the Commissioners, we'd ask, please let us know if there's

specific topics or processes you'd like us to review and advise on. We would be more than happy to do that. We really appreciate the Commission and, of course, all the Board members. Thank you.

MR. RITCHIE:

Yesterday was extraordinary, and working with the staff during this last year to kind of pull all these pieces was extraordinary, and I just want to underline how fortunate we are and how grateful I am personally that we have this staff and new leadership able to sort of make our time valuable, who are all busy, and that's the common bad news or good news, if you want to throw it that way. And it's our staff that help us then make sure that we're using our time well and these are really put together. So thank you to staff and leadership, and thanks to all of us. We're able to meet each other and possibly do other things together, but we're able to be effective while we're doing this business. Thank you, Mr. Chair.

## **EAC CLEARINGHOUSE RESOURCES PRESENTATION**

CHAIRMAN MOORE:

No, thank you all.

So, without further ado, let's go to our first panel and the EAC Clearinghouse presentation. We have two resident experts, who have been on staff and doing the day-to-day work. It's an

outstanding staff, and thank you for being patient. We'll first hear from Ben Jackson, who's a Senior Election Specialist on election matters, Matters Expert at the EAC. And Adam Podowitz-Thomas from the subject matter expert as well. So it's all yours, so take it away.

MR. JACKSON:

Good morning. Thank you for the introduction, and welcome to day two of the Board of Advisors meeting.

My name is Ben Jackson. I am a Senior Subject Matter Expert at the EAC. Prior to joining the EAC, I was a staff attorney at Disability Rights Maryland. My work was funded by HAVA, and I was responsible for ensuring election accessibility from voter registration through marked casting and verify ballots in the State of Maryland, and I am joined by Adam Podowitz-Thomas, who can introduce himself.

MR. PODOWITZ-THOMAS:

Good morning, everyone. As been said, my name is Adam Podowitz-Thomas. I am also a Subject Matter Election Expert with the agency. Prior to joining the EAC, I was with the Princeton Gerrymandering Project, where I was the senior legal strategist. And in a life before elections, I was in environmental (inaudible).

I'm going to turn it back to Ben to talk about some of the resources that we have available.

MR. JACKSON:

Thank you. And so, before we get into the resources, we want to introduce the clearinghouse division itself. It's made up of six members currently and, you know, will possibly expand in the future, but it is made up of former local election officials, as well as subject matter experts. And the EAC clearinghouse division is helping to fulfill the EAC's mandate under HAVA. It's a statutory mission to gather resources from state and locals and share them amongst the community, as well as creating new resources. Okay. Thank you.

And so, over the past two years, the EAC has released 40 guides, toolkits, and more on a variety of different subject matter areas. So these address issues facing election officials, election workers across the country, and we're identifying safety threats, protecting the integrity of voting, and ensuring voters with disabilities and those with language barriers can fully participate in the elections.

MR. PODOWITZ-THOMAS:

I'm going to walk us through a few of the resources that we've released over the past few months.

First up is the second edition of our Election Management Guidelines. Within the agency, we refer to those as the EMGs, so if you hear me use that term, that's what I'm referring to. The EMGs

were last updated about 15 years ago, so the update was well overdue. Obviously, election administration has changed quite a bit in those intervening years.

And the EMGs have 19 chapters that cover a range of topics that are of use to election administrators. They were updated based on input from local and state officials as well as other stakeholders, and they serve as a resource for the new and experienced election officials, sort of regardless of the size of the jurisdiction or the resources that are available to those individuals.

If you're interested in more information specifically about the EMGs, we actually have a flyer at the registration desk that has a list of all 19 chapters and the QR code that'll take you directly to the pdf of the document.

Next, and I'm sure this is one that you all are intimately familiar with, election officials have been facing just an inundation of public records requests over the past few years, and you know, it's a hard thing to do. A lot of folks don't have a lot of experience dealing with these requests from the public, but it's really important that they get it right.

So the EAC has released a best practices guide that addresses these requests, and it highlights innovative methods that are available that election officials have used, including, for example, having a public reading room or a public-facing website

that has FAQs and answers to those questions and resources that are often requested. The guide also includes information about sort of how election officials can very efficiently address these requests as they come into their office.

And then, the last one from me, and then I'll pass it back to Ben, this is actually a suite of resources that the agency has debuted recently on voter-less maintenance, again, another topic that's been in the news a lot lately and is of really profound importance to election officials.

We have released a suite of resources to support election officials with this, including a best practices guide, a fact sheet, and a toolkit that helps election officials communicate with their voters and the public about this process.

Additionally, we held a public hearing in March, featuring election officials as well as a Subject Matter Expert, Sara Brady, who I'm sure you all know, spoke on the panel how different jurisdictions manage voter-less maintenance, the challenges they face, and best practices other jurisdictions could implement. A recording of this hearing is available on our website or our YouTube channel, if you'd like to check it out.

And like I said, now I'm going to turn it back to Ben, who's going to highlight a few more recent resources as well as one of our upcoming resources.

MR. JACKSON:

Okay. Yeah, sorry about that. Yeah, so thank you, Adam.

So one of the other more recent resources that we've had is the alternative voting methods covers different voting methods currently being used or considered across the country, and so, this is based on feedback that we have received from state and local election officials as the subject matter expert team has attended national conferences.

We want to kind of be preemptive and provide information to state and local election officials and policymakers on what the practical implications are of making these changes, of moving from, you know, a first-pass voting system to different alternative voting methods, so you know, making sure that, at the outset, everybody has the information that they need to really make smooth and effective elections.

And then, another resource that we have, just recognizing, again, the landscape and looking forward, is just multiple election equipment resources to, you know, this is very important to maintain election integrity, and as we're looking, you know, VVSG 2 has passed. Labs are getting certified that, you know, with a possibility of states and different localities producing new equipment, what do you do with the previous equipment. So we're making sure that everybody has the resources they need to



address these upcoming issues in a way that ensures election integrity.

This is a really great resource. This is our EAC toolkit. Pause. Take a picture of the QR code. If not, these resources are available on our website and at the desk there, but you know, these toolkits, the best practices, FAQs for election officials, the National Poll worker Recruitment Toolkit, they've all been hits on the road as we have presented them to election officials across the country, you know, really helpful for, you know, specifically the FAQ for election officials is great for voters as well as new staff that we recognize that there is a turnover in the field and that you want to ensure that, you know, these top-level items are being covered in a way that makes sense to both voters and new election officials.

And then finally, for me, the upcoming disability accessibility resources, the area that is near and dear to me. We have a disability voting accessibility for the 2022 election, so over the previous probably six election cycles, the EAC has contracted professors at Rutgers University to conduct accessibility surveys, post-election accessibility surveys across the country, and you know, this data can be used by policymakers, state and local officials to determine where the barriers are, where the gaps are so we can, you know, fulfill the mission of HAVA and the ADA to ensure that voters with disabilities are ensured access.

In addition to that, we have a retrospective -- I know we have the panel, the NVRA 20 coming up, but we also did a panel to take a look at the impact of HAVA over the past two decades to see, you know, what practically has been done, you know, from the perspective of voters with disabilities.

And finally, the EAC has contracted with the National Center for Accessible Media, the people who created captioning, to create a webinar-style training series, to ensure that election officials are able to communicate with voters with disabilities in mediums that are accessible, as well as covering areas such as physical accessibility and just general interaction in the polling place. So really excited to have these coming up this year.

MR. PODOWITZ-THOMAS:

And I'm going to talk about one more resource we have coming out later this year that we're really quite excited about. It's what we're referring to at the EAC Clearinghouse Network, and it will be a peer-to-peer website of election officials from across the country who are able to connect with each other as well as with the EAC.

So it's an opportunity for folks to share resources across jurisdictions that they have developed that they have found really impactful. It's an opportunity for the EAC to make sure that our resources are getting out to all the users across the country who

could utilize what we've developed. And I think there's some really cool features about it that I want to highlight.

The first is that it's organized by communities, so there will be different ways that people can connect over topics. So if someone's, for example, interested in audits, we have an audits community, and they can share resources and information with each other and engage in real-time conversation with folks that they otherwise might not be able to interact with.

It's also going to have a resource library, so when either the EAC, as an agency, or users load documents into the system, it'll automatically populate into this resource library. Folks will be able to run searches across the entire website and find those resources very easily, so it's going to be much more user friendly than, I think, going to, you know, hundreds of different websites, trying to find these resources.

And then, the final thing that I want to highlight about it that we're really very excited about is it's going to have a searchable member directory. So when members join, they're going to fill out a profile. They'll put their current and former affiliations, you know, if you've worked in multiple election offices, where have you been, but even more importantly, you're going to be able to list your skills and your interests.

And so, if you're an election official, and you're really curious about, let's say, communicating with the public. You can run a search and say, I want to find somebody who's an expert in this area, and this person may be across the country or right next door, but you're going to be able to connect with them on our system, talk with one another about best practices, what they've learned, and really build your skillset up. So it's going to be a really tremendous opportunity for folks to get to know one another, connect, share resources across the country, and we're really, really quite excited about debuting that this year.

And then finally, and I'm going to leave this slide up for a minute in case, again, anybody wants to use the QR code. You know, we have a number of other resources that we just didn't have time today to highlight that are available for election officials. Some of those you've heard about, I think both today and then yesterday in some of the other panels.

I want to highlight particularly our resources on voting technology, election security, and language access. And then, one thing that hasn't made this slide yet, but we're also pretty excited about is a guide that we've released for election officials on how to work with their state legislators. And we did that in cooperation with NCSL, and I'm very excited to get that out in the hands of election officials across the country.

All of these resources here and many others are available on our website. Again, the link's there. The QR code's there.

But I will move onto our last slide, which is just to ask if you all have any questions for us. We're happy to answer them.

CHAIRMAN MOORE:

Well let me -- I'm sorry. Commissioner Palmer, did you?

COMMISSIONER PALMER:

I have a really good question for you. I think the one that you left off that was a big hit last year was chain of custody. Could you talk about that one just for a second?

MR. JACKSON:

Yeah. Thank you, Commissioner Palmer. Yeah, the chain of custody was a huge hit last year. We got a lot of mileage out of that, and we hope that all of our resources are, you know, utilized as much as the chain of custody document.

But yeah, I mean, it was really responsive to the needs of state and local election officials, right? You know, there were questions that people were receiving from the public, from the media about, you know, how their ballots are being tracked, where they're going, and so it just really broke down the process in a way that was, I thought, easily digestible, no matter, you know, kind of what sphere that you are related to elections. And I hope that our other resources are as equally responsive to those needs that, you

know, we have a document, and then you can easily track throughout the process, you know, how equipment is being moved, how ballots are being moved.

And then, you know, election officials who had questions who might've been new to the process, they might've lost this institution were able to then go there and utilize and maybe ramp up, you know, their security through that using the chain of custody document.

CHAIRMAN MOORE:

One of the things I wanted to point out, when we were preparing for our panels this afternoon, a couple months ago, myself, Sara, and Doug Palmer, Commissioner Palmer were discussing the list maintenance concern of components of the two panels we're going to have following, and he asked me to watch the hearing on list maintenance. And I have to tell you, it was an eyeopener.

So I'm going to ask Sara, if she's in the room, but if she could send that link to that hearing around to everybody. If you just watch that, I think you'll get a lookdown into where we're headed and where we might be headed.

And I don't know if any of the Commissioners want to say something about that hearing, but it really, to me, was -- the March

hearing on list maintenance was really something for us to all be kind of aware of, so I'll just leave it at that.

But if you want to say anything, here's your chance.

FEMALE SPEAKER:

Sara just came in.

CHAIRMAN MOORE:

Yeah.

FEMALE SPEAKER:

Sara's on the spot.

[Laughter]

CHAIRMAN MOORE:

Yeah. Sara, I was just talking about the list maintenance link you sent me that helped me, you know, get a better appreciation for the list maintenance issues that we're facing around the country, and if you could send that link to all the members of the Board, that would be --

MS. BRADY:

Absolutely.

CHAIRMAN MOORE:

Thank you.

MS. BRADY:

I understand our (inaudible) watched me on state TV, so I have had --

CHAIRMAN MOORE:

Yeah, I saw it on a 63”.

[Laughter]

MS. BRADY:

But yeah, I think the hearing was a really great conversation, and I hope that the resources and information that we are able to share from that will be a benefit to the membership. I will have (inaudible).

CHAIRMAN MOORE:

Great.

COMMISSIONER HOVLAND:

And I'd just add, Greg, thanks, you know, again, I think that was a very good conversation. It was a good opportunity to lift up and sort of have a conversation on this issue. I think subsequent conversations from that hearing, you know, both with the Local Leadership Council, you did a series of sort of regional conversations. You know, I think obviously there's been a lot of national dialogue combined with some mis- and disinformation around the list maintenance process.

I think, like so many processes in elections, you know, for folks who do it, for the folks who live this and think about it all the time, sort of, we understand that nuance. For most people, for



most voters, there are, you know, safeguards and measures in place that aren't out there.

And so, I think, you know, whether it's the chain of custody documents or some of these list maintenance documents, you know, that were referred to, some of the toolkits around communicating with voters. I mean, I'm sure every election official in this room has probably gotten angry calls from people about a mailer that they didn't send out. You know, certainly, I remember getting those.

And then people just don't understand the process, you know, obviously the calls about -- actually, I was talking to Shane yesterday about Shane's got Missouri State in Greene County, you know, shocker. People, college students move. You know, he's got a lot of address changes in his county, and sometimes people get mail for somebody that doesn't live there anymore.

And so again, just a lot of these toolkits have been focused on, you know, both explaining the process, you know, again, trying to capture institutional knowledge, help folks get up to speed faster, but also potentially be used for voter education materials and repurpose that way as well.

CHAIRMAN MOORE:

Thank you.

COMMISSIONER HICKS:

This is a small thing, but it's kind of large. In terms of eight years ago, when we went and started working at the EAC up in Silver Spring, we didn't have the opportunity to actually have hearings on a regular basis, because we had to share our meeting space. So if we wanted to have something of significance, like that we're going to do today, to talk about military and overseas voters, we would have to wait three months out to actually schedule something like that.

So this is an opportunity to take advantage of those things, to come and see our new facility's hearing room and not have mice run across your feet as well.

[Laughter]

COMMISSIONER HICKS:

So, when we did this maintenance hearing a month ago or so, it was significant to me to say, hey, this is a topic we want to talk about. Hey, let's have a hearing on it. And we can do that two weeks out with giving notice to the Federal Registry and those sorts of things.

So having the resources that we have with our subject matter expert to talk about those things and talk about the things that are significant to you -- I guess I need to be quiet. But anyway, so to be able to have these resources, take advantage of that. Take pictures of the QR code, so that, you know, you might not

think about it now, but you think, hey, I think the EAC might have something on that. And go to our website, because it's going to be updated soon and things like that as well. So take advantage of this.

CHAIRMAN MOORE:

Thank you, Mr. Hicks.

And so, the floor's open for any questions for our two experts here. Oh, I'm sorry. Please.

MS. IBANEZ:

Hello. Thank you so much. My name is Hannah Ibanez. I'm with the Access Board.

And I was wondering if you had an idea of when we could expect to see the data from the Rutgers study on the '22 election on voters with disabilities. I think we feel that it would be very useful, but we have some concerns that it might be released too late, so I'm wondering if you have any information on that. Thank you.

MR. JACKSON:

Certainly. And so, hopefully within the next month or so, and I think the 21<sup>st</sup> of April, the Census released new information that will help the data get quantified, so currently, we have the percentages breakdown, so you know, no quotes here, but for example, we would say that 60% of voters with disabilities had, you

know, early-voted, used ballot drop boxes, that kind of stuff. And now, with this newly released Census data, the professors are going to crunch that so then we can quantify that to say, oh, that means 8 million voters used that stuff.

So it is very close to in process. Had a minor hiccup. Rutgers went on strike a week or so.

[Laughter]

MR. JACKSON:

And that was not something that we typically planned for here and don't have control over, but we're still in communication and hope to have that information released in the next month.

MS. IBANEZ:

Thank you.

CHAIRMAN MOORE:

Mark Ritchie.

MR. RITCHIE:

I've noticed, in our two days of meetings, that there've been referencing to some amazing hearings or somebody's presentation or whatever. One of the resources that I really appreciate is when somebody says, hey, there was this hearing, and Sara was fantastic, and if you're interested in that subject, here's the link. And that's something that the clearinghouse, for us, or maybe in the modern era, somebody done automatically, but I would appreciate

that kind of alerting that says. You know, because people do take time, prepare, and so sometimes it's the high level that we don't get very often.

COMMISSIONER HICKS:

I would suggest signing up for our newsletter.

[Laughter]

COMMISSIONER PALMER:

This is Commissioner Palmer.

MR. RITCHIE:

(inaudible) love that that blast comes out and Sara's on a 69" screen. Click here.

COMMISSIONER PALMER:

So periodically, we do, as a DFO, send out materials as they come out to the boards. Of note, I don't want to speak out of turn here, but I think the network that we're developing, our boards are going to be some of those communities, the very first communities, and so those materials will all be available through your membership of this Board of Advisors.

CHAIRMAN MOORE:

Okay. Yeah, Jim Dickson. Go ahead.

MR. DICKSON:

This may not be the appropriate time for this question, but we heard yesterday the shocking numbers of how many new

election officials there are in the country, and in the past, most election officials don't attend conferences, for whatever reasons. In particular, I'm thinking about a lot of smaller, rural jurisdictions, where it's one or two people, and they've got 18 tasks besides elections. And I'm wondering if you've put any thought into how you're going to connect with those election officials who are not attending state conferences.

CHAIRMAN MOORE:

Good question. Thank you.

COMMISSIONER HOVLAND:

I'm happy to jump in on that, Jim. Thank you for the question.

I think, you know, we're absolutely conscious of that, and I think a lot of the structure that we've been building at the agency is targeted that, you know, HAVA created this Board and the Standards Board and the TGDC. We created the Local Leadership Council in part for that issue, to have a conversation with the leadership of each state, professional association to be able to figure out how to get down to that last mile of those officials who, you know, aren't able to get away from their offices or don't have the resources to attend so many of the national conferences that we do get to go to. So I think that's a big piece structurally.

I think, you know, we're hopeful that the Clearinghouse network that we just spoke about will be one way that we can do that.

And then another area, you know, I think in this moment, so much of the conversation yesterday and so much of our conversations at the agency probably, you know, post-2020 have been thinking about, you know, with this turnover we're seeing in the field, you know, there's this need to capture as much institutional knowledge as we can and then help new people get up to speed as quickly as we can. Some of that has been through some of the resources we've talked about, but we're also exploring ways to do additional trainings, make those asynchronous, make those digestible, smaller pieces. You know, those are things that we consistently hear.

You know, again, I mentioned some of the pilots yesterday, but you know, that is another one of those pieces that we're looking at. In that context, to think about, you know, how we can provide these things, how we can learn from that, but make them useful to sort of jurisdictions of all sizes across the country, and then again, take back what we learn and hopefully hold that up to Congress and say, you know, you've been hearing about these issues and these challenges or the space. We think this is the solution, and we hope that you will support it adequately.

CHAIRMAN MOORE:

Okay. Please, Chris.

MS. WALKER:

Just a quick comment. Chris Walker, Jackson County Clerk, Oregon.

And I just want to stress how important the relationships that Ben, Tom, Christy, and Don have established with the Election Administration community. It is so important, something that 10, 15 years ago, even though the Commission was new, that we hadn't really even looked at as a resource for. So what you all have done with this group with everyone around the country has been nothing short of phenomenal in the support you're giving us. So I just wanted to pass that on how much appreciation I have for everything that you all do. Thank you.

CHAIRMAN MOORE:

Thank you. I'm sorry.

MR. CRAMER:

A quick question about kind of filling in the gap, kind of piggybacking a little bit. With all the new election officials across the country, have you all considered doing, like, regional workshops or coming to the state and actually teach the best practices rather than having it on your website? Because I think, and I'm only going to speak to South Carolina and counties with one or two people as



full-time staff, where maybe they could attend a workshop, but they're not going to sit and probably go through a website to navigate and, quite frankly, probably don't have the best resources to do so.

So I think there's an opportunity for the EAC to stand in the gap with workshops with best practices tailored to, for example, in South Carolina, our way of doing things. Because I think sometimes you get the best practices, right, but it doesn't apply to you necessarily, and you've got to tweak things, and I'm not trying to, you know, speak down to anybody at all, but everybody comes with different resources, different backgrounds, and for some folks to, you know, maybe tailor it to their jurisdiction would be a lot of work.

So it could be a helpful resource that you come into, for example, South Carolina. I'll invite you in. Please come.

[Laughter]

MR. CRAMER:

I'll host you. We'll do a workshop. I'd love -- no, I'm serious, because you know, standing around, like there are a lot of great things, and I was talking to Don yesterday about this. There's a lot of great resources across this country, and this portal, this, you know, clearinghouse ability for us to talk with other folks is going to be tremendous and phenomenal. We need that desperately. We,

Ricky and I, have talked with Chris with NACo. Like, how do we get all the election officials in one platform? It doesn't exist.

And everybody's trying to do that. Everybody. It's the number one thing. At every board I'm on, they talk about, well, we need to bring election officials together. How do we do that? So that's going to be great, but I think even drilling down deeper is the regional workshops or state workshops, where you come in and give a specific, here are your best practices for your state. I know it's big. I'll sign up for it. If no other state wants to do it, we'll start with South Carolina.

[Laughter]

MR. CRAMER:

So just what do you think about that? You know, I know budgets are limited, but --

COMMISSIONER HOVLAND:

I'll jump in there again, because actually, this is, like, a preview for part of the Local Leadership agenda in July. You know, I think part of what we recognize or in these conversations that we've been having to think through this, you know, a big part of it is meeting people where they are. And again, you know, if we've learned anything in elections, it's everybody does it a little different and, you know, one size doesn't fit all.

And so again, recognizing that if you're the only person in your office or if you've got two people in your office, you know, it might not matter where it is, you're not going to be able to be there. And so maybe the asynchronous is the best option.

But you know, one of the things we've been talking about, too, is how we then can package that so, you know, working with the LLC members or the presidents of the state associations, you know, we can come out to your conference, and here's a menu of sort of trainings that we have that our subject matter experts can talk about that we can tailor to your state or work with you to tailor to your state and then provide that.

And so, you know, again, if it works to come to a national thing, great. If it works for us to come to you, great. And if neither of those work, you know, hopefully there's a way for you to access some of this online.

So again, you know, I don't think there's anything that's going to be perfect here, but by having some variety, hopefully we can meet as many people as we can where they are at.

MR. CRAMER:

So Zoom is a really good thing, but like we were talking at breakfast, like, it's so much better to be in person.

[Chorus of agreement]

COMMISSIONER HOVLAND:

Yeah.

MR. CRAMER:

There's just the quality of that that you can't translate over a video. And I think we had that era of COVID where we all went to Zoom, and I think that's still kind of prevalent, you know. With certain things, it's the easiest way to connect with people, because you can do it instantaneously, wherever, if you're in California or South Carolina.

But I think the in-person aspect is so critical part of your mission with getting these resources to election officials, because it just kind of -- you know, here's another Zoom link that I have to click on. And you can zone-out. I mean, like, if I zone-out here, I know some of us are on our phones -- I'm calling you out, I'm just kidding -- you know, it's harder to zone-out in this setting, because you're at the table, looking at people.

It's so easy to do that on a Zoom platform, where you're being pulled in a million different directions, and you're like, I can mute myself, turn my screen off, and I can go do my other project. Here, it's a little bit more difficult. I have to actually leave the room and actually consciously have you all look at me as I leave the room and say, what's he going to be doing? Is he grabbing some coffee? I'm just kidding.

[Laughter]

MR. CRAMER:

But I think it's really my point is driven here home. It's just in-person is going to be, I think, a huge, tremendous resource to election officials, because that's actually what we prefer.

CHAIRMAN MOORE:

Thank you so much.

CHAIRWOMAN MCCORMICK:

Yeah, we're --

CHAIRMAN MOORE:

I'm sorry.

CHAIRWOMAN MCCORMICK:

Can I just answer real quick? I mean, I just want you to know, you know, one of the efforts that we're really, you know, pushing is getting to every state conference. We've been asking the state leaders when their conferences are, and we try to get at least one Commissioner to each of the state conferences. And hopefully, we can start doing some trainings in conjunction with that, bring some of our staff as well.

And we're also working on -- we're starting small, but you know -- an election academy, a training academy. We recognize that there's a need for professionalism in training in the election community. And so, we're just starting off with that, but you know,

hopefully that will grow to something that will be of help to those who are in rural areas who can't get to us.

We also recognize that there's connectivity problems with some of the rural counties, so you know, that's a challenge as well, but we are attempting to get to as many state conferences as we can and meet as many local election officials as we can.

CHAIRMAN MOORE:

Thank you, Chair, for that comment, and again, all of us around the table will hopefully try to facilitate that, as we come from different states, to try to help get the entrée to the Commission.

We are really running behind, but Barbara, can you say real quickly we're going to go to --

MS. SIMONS:

So I missed the beginning. I'm still from California.

[Laughter]

MS. SIMONS:

And so I apologize if this has already been covered, but this is a question for Ben. And again, if you've already talked about it, just tell me and don't answer it.

Have you discussed the importance and the need for good mail options for voters with disabilities, drop boxes, the ability for family members to take their ballots to the polls, that sort of thing, and how important that is for voters with disabilities? Thank you.

MR. JACKSON:

So we haven't specifically addressed that this morning. We do have a best practices on ballot drop boxes, but definitely, I know, Barbara, we'll be in touch, and, you know, I look forward to more feedback from all of you than I had the chance to touch base with Barbara yesterday evening, and so this is the kind of feedback that we're looking for, as a part of the subject matter expert team is that we produce these resources, you review them, you digest them, you figure out what you think, you know, what other best practices could enhance our documents so then we can re-release them or add addendums or whatever's appropriate. So thanks again for bringing it up.

CHAIRMAN MOORE:

Okay. I think, Senator, we're going to go for 30 seconds, and then we've got to --

MS. KAGAN:

My question's going to be fast, and Ben, I'm directing it to you. Cheryl Kagan.

Language access. So Spanish is a primary secondary language in Maryland, as you know, but there are a lot of other languages that are on the increase. What's appropriate, and is there a threshold at which you believe that ballots, particularly let's say mail-in ballots or something, or ballot-marketing devices,

should be translated into other languages? How should that decision be made?

MR. JACKSON:

And so, our language access has some best practices that are used for other states. I think California has a 3% threshold, but the biggest thing is all elections are local, and so, it's whatever, you know, the community says or is, you know, responsive to the needs of the community members, because I know, for example, in Maryland, there's a significant number of Haitian-Creole speakers, and that's not covered under, you know, Section 203 of ERA, because it's seen as an Indo-European language.

But you have to be responsive to your community members. It's only going to be local election officials that are going to be able to make those decisions and have that kind of knowledge that will be responsive to communities.

So we can't be that prescriptive, but we do have some best practices, you know, relating to language access that can be helpful for local officials to bring to policymakers to, you know, backup those arguments that they might have to increase access.

CHAIRMAN MOORE:

I respect our panel. Thank you so much for this.

[Applause]



## HAVA AT 20 PAST AND FUTURE PANEL AND DISCUSSION

CHAIRMAN MOORE:

And we're going to quickly move to our next panel. Let me just read their names real quick.

This is the HAVA -- we're going to do two panels back to back. This is the first of two. It's the Help America Vote Act at 20, which celebrated its 20<sup>th</sup> anniversary just this past October. Our panel will be moderated by our former chair -- I'm sorry, by our Commissioner Donald Palmer.

[Laughter]

CHAIRMAN MOORE:

I apologize, Mr. Commissioner, for saying Doug Palmer. I'm not sure where I got that from.

[Laughter]

CHAIRMAN MOORE:

But he's going to moderate. And the speakers we have are Doug Lewis, who's the former Executive Director of the Elections Center who's now retired; our former Chair Alysoun McLaughlin, who is the Deputy Elections Director of the Montgomery County Board of Elections; and Pat Leahy, a Senior Government Affairs and Public Policy Advisor of the EAC.

Can you all get through that way? Okay. All right. So let's let them get settled and situated, and then, when we have

questions, I'm going to ask you to make them brief, because we are running about ten minutes behind, and that can slip real fast.

And I want to thank our panel again for coming.

Commissioner Palmer, it's on you.

COMMISSIONER PALMER:

So I want to welcome. We've given a little bit of an intro of our guests, so I'm not going to repeat that, but anyone that knows 'Don' Lewis [*sic*] --

[Laughter]

COMMISSIONER PALMER:

I mean, excuse me, Mr. Chair -- goes back to the National Association Election Directors, has worked there and with the Election Center, of course, Alysoun McLaughlin from Montgomery County, and our own Pat Leahy, they all have a history with the Help America Vote Act in its sort of development and sort of implementation and sort of the first decade or two -- I'm sorry to age you all -- of sort of where HAVA was and where it's been and where it's going.

And so, we had a pre-discussion, and I'm just going to let you launch in, because we're running a little bit behind the time, launch into your initial five- to seven-minute comments, or a little bit more, and then we can open up for questions.

Did we decide who's going to go first? 'Don', I'll let you go first.

[Laughter]

MR. LEWIS:

Thank you. Thank you. Thank you. Okay. Yes, let me do that. Okay. Now, we're on.

It's nice to be with you all. I was the actual first chair of the Advisory Board after we created it, and so I really recognize the importance of what each of you all are doing in this process.

MR. DICKSON:

A little louder.

MR. LEWIS:

Yes, sir. The first person that came to me to talk about how do we fix what happened in election 2000 was Senator Torricelli's staff. Sara Kimball [phonetic] from Torricelli's staff, she said that Torricelli, who was chair of the Senatorial Democratic Campaign Committee, and Mitch McConnell, who at the time was chair of the Republican Senatorial Campaign Committee, had agreed to get together to form a bipartisan legislation to start the process of fixing the problems that came up in election 2000.

So, once we got convinced that it actually was going to be a bipartisan effort, that this was not one side trying to put the other side out of business with the normal operandi in most elections' legislation, we decided to sit down and really go through it. And once we got the commitment on the House side with Bob Ney and

Steny Hoyer, and let me tell you those two guys were wonderful in terms of working together to create this.

Rather than go back and do a step-by-step of how that thing progressed and what our hamstrings were and all of it -- it's been in effect now for 20 years, and you've seen the impact of it -- let me tell you some of the things that, in my mind, were unique in legislation and were unique in how we got to where we are in passage of that act.

I think what is most relevant that we don't see nearly enough of anymore was it was clear that both sides were serious about getting together to work out a piece of legislation. That just doesn't happen enough anymore, but in this particular instance, the impact of that election was so big that everybody was concerned that we might lose the whole elections process if we didn't get busy and try to fix at least as much as we could in that process.

I will tell you honestly, each side struggled for a while, because each side tried to gain partisan advantage, to the extent that they could. Once it became apparent that that was not going to work for either side, then we sort of came to a meeting of the minds of how do we get there.

What also was unique was this was the first time probably in national election legislation that Congress was asking the people who were going to administer the process how to fix the process. It

was no longer partisan groups. Although those were there and singing loudly and clanging loudly, it was no longer just the party apparatus. It was indeed, look, we take this seriously enough, we want you all to guide us in this.

And so, that was a unique aspect of this. And as a result, what we did was to make sure that each side had election officials who had gotten to their process in a partisan context but didn't run elections as partisans, but ran them as elections administrators, to be able to communicate with their own party as to whether or not something was useful or not useful and whether or not it would accomplish the objective they wanted.

The legislation was also different. It was the first time that we didn't have legislation seeking to be very prescriptive in telling us how to do things. What we did was is we said to Congress, tell us what your objectives are. What is it you really want in terms of us getting this done? And then, how do we get to doing that without upsetting the way the system really operates with the real-world implications and the real-world administrative process?

So we were able, by a course of education. The elections staff of both House Admin and Senate Rules Committee on both sides were really committed to learning as they went along. It didn't mean that they weren't also being beat upon to do the partisan routine, particularly by voter groups, but it did mean that they were

so interested in this, because they knew the whole process might be at peril. This was where we were as a result of it. And so that was something different and made it go.

HAVA also gave a new definition to the rights of the blind particularly, and other disabilities, and I'll let Pat talk to you about where we got on all of that, because this was a remarkable accomplishment on this. And so, it was also the first time that the federal government had spent a dime on elections.

And then, we came, you know, where we sent three billion bucks. And so, it made a difference. It made a significant difference in how we were able to move up a timetable to actually get some changes made.

And so, what does that mean to you guys today, as members of the Board of Advisors? Well, here's what I think is instructive. When the first groups, when Torricelli and McConnell came and when Ney and Hoyer came, I proposed that we create a brand-new election legislation, election commission.

And the reason for that was is that the Campaign Finance Commission, euphemistically, they call us the Federal Election Commission, was one of those bodies where it is in partisan gridlock almost all the time, and that's on purpose. That's by design by both parties to get there. And we didn't belong in that environment. That is not who elections are for and about.

And so, I took a lot of heat over recommending creating a new federal agency and making it specific to election administration. But let me say to you, the result is now apparent why we did that. And you folks are serving the nation in terms of you represent the political spectrum.

Some of you are here as the result of politicians. Some of you are here as a result of being commissioners on a bipartisan commission. And some of you are here as elections administrators. And that's what is a good conversation.

Let me say to you, over the years, the moderating influence of being able to have a knowledgeable staff, a knowledgeable process, a bipartisan commission where they can talk to members of their own and still come to agreement as to what really constitutes good elections is worthwhile. That's what you're here for.

And the Commission, I'm going to say to you, Don and Ben, Tom, and Christy --

[Laughter]

MR. LEWIS:

-- this is remarkable. We've come so far in that 20 years. You all are an effective agency at this point. You've gotten enough staff at this point. You're beginning to have good programs and money to be able to do this, and that's important to democracy in America.

And let me end my portion with this. We tend to think that democracy is going to be around together. Well, the Greeks created it. They had it from about 508 B.C. to about 322 B.C., and then they lost it. We've been the one to survive the longest since then, but if we keep trying to destroy people's fundamental faith in the fairness of elections, we, too, will see democracy go by the wayside.

That's what's at stake. This is not about who gets to posture partisanly about whether this ought to happen or that ought to happen. You are the group who can carry the message to all of your own political structures, to all of your own support structures. Administering elections in a non-partisan way, or at least a bipartisan way, is what America needs and wants and exists for.

And so, let me say to you, I'm going to end my part of the conversation just like two fellows of the same party. One of them said, boy, this is a dull party. He said, I believe I'm going to leave. And the other fellow said, that ought to help some.

[Laughter]

MR. LEWIS:

Thank you.

[Applause]

MS. MCLAUGHLIN:



Well, I'm going to throw out my notes, because Doug pretty much said everything that I was going to say.

[Laughter]

MS. MCLAUGHLIN:

Alysoun McLaughlin, now in Montgomery County, Maryland.

But I was lobbying for the National Council of State Legislatures at the time, HAVA, and I'm going to make my opening remarks very short, because one of the things that we talked about wanting to do during our time here is to hear from some other voices, and there are a lot of faces in this room of people who were really intimately involved in all of the conversations at the time and have a lot to say that I'm not going to try to speak for Linda, speak for Leslie, to speak for all of the people who were in the room for so many of these conversations. I would love to hear from you.

I will start by just noting that the Help America Vote Act of 2002 obviously took two years to get passed after the 2000 election, and March 23, 2004 was the first public hearing of the EAC. I know that, because I celebrate its birthday every year.

[Laughter]

MS. MCLAUGHLIN:

I was in labor at the time.

[Laughter]

MS. MCLAUGHLIN:

My daughter was born that night. We have several people here in the room who have HAVA children, and our HAVA children have now grown up and are adults in their own right, and so is HAVA.

You know, we're really looking back now, nearly 20 years in the rearview mirror, at something that took time to build to get to this point. A word that I heard at the bar last night when people were talking about the conversations yesterday, was maturity. That wasn't necessarily always the case. It takes time for dialogues to build. It takes time and lots and lots of iterations. It's really just an organic process for the dialogue on these issues and for that face-to-face communication, the conversations around the bar, the conversations around the hollow squares that really make progress happen and people being able to broker that bipartisan conversation, that non-partisan conversation, to really bring people together on what needs to happen for the field to advance.

And that's obviously been set back with the pandemic. The last couple years, I think, has really not helped people's ability to get together face to face, hash things out, get drunk, write on the back of envelopes, back of bar napkins, and come up with ideas of how we can really advance negotiation and compromise and advancement in the field.

A couple of things that I want to just flag before we go further in the dialogue is that, as Doug, I think, alluded, HAVA really was not a foregone conclusion. Neither the form of what we came up with, nor even just its existence was necessarily what everybody expected at the time.

I cannot overstate how concerned state and local officials were about the prospect of a federal takeover of election administration. I cannot overstate the amount of anxiety and the amount of time spent with local and state officials at the table together talking with federal officials, talking with all of the stakeholders, to reach a confidence level that we could actually reach an agreement, that we could actually jump.

And again, those personal relationships are key. The moment that Pat Leahy came out to an NCSL annual conference was a moment that the tide turned. And a lot of the state legislators in the room then were able to say, wow, you know, the House Republicans are really serious about wanting to do this, and this isn't just, you know, Democrats over here and the Republicans over here in their corners, but it's really important to the folks on the Hill to be coming out and talking to us, talking to the state officials and the local officials about how we're going to do this right.

You know, I remember sitting in the conference room over at the House Administration Committee hearing room on Bueller,

laying out this vision of a Standards Board and a Board of Advisors and all of these people and thinking, wow, this guy is crazy. This is never going to work.

[Laughter]

MS. MCLAUGHLIN:

And it's working. And it is a process that has enabled us to bring people together in order to have a structure to really work through these issues.

Now, is everybody at the table that needs to be at all times? Absolutely not. And I think that's one of the things that we really need to work on is making sure that we've got the right people in the room in order to have these conversations.

One of the things that I think we really -- it was important for us to do all of the things that we've done in terms of uniformity within states about things, but one of the things that I think we've really struggled with is the divide between the experience in urban jurisdictions and rural jurisdictions, large and small.

One of the things that we were reminiscing out in the hallway about people who were involved in some of these early stages and Representative Vernon Ehlers talked a lot about the human factors in election administration, and he was not wrong. And we need to get back to talking more about the administrability of some of what we do.

I have a team member in my office who talks about the necessary and important and wonderful choices that we give to voters, but he describes it as a Cheesecake Factory member, that we've gotten to the point where we have so many different things that we're administrating, so many different things that the cooks are preparing in the kitchen, so many different choices for the voters to make, that it becomes unwieldy and difficult, both in the kitchen and at the table, when the voter is trying to understand their options.

And so, I think we, as a community, really need to grapple with that. We can only do what our systems and our people can do, and right now, I think we're really seeing the difficulties of the people of the election administration, the election administrators themselves crying uncle, and saying, you know, there's only so much we can do and we can do well. And I think, as a community, we will really need to grapple with that and really identify how we can connect those pieces.

Grants, the whole conversation about grants and the structure of the grants in HAVA, I think that in the early years, obviously the expectation was that we were going to have the one-time-only money that was going to come out, but you know, what survived was the HHS, the polling place accessibility grants, which year after year after year, we saw continue to get funded. And so

the money that had a constituency was something that we were able to really identify on the ground what this money was going to do.

And so, continuing to have that dialogue, continuing to get to the point where we connect what we're trying to accomplish with tools that we're using and the people on the ground who are doing the job.

And I'm going to shut up now, because we have a lot of people who want to speak, and we'll get back to the details later.

I'm on. Hey, I'm Pat. I work here with the Election Assistance Commission. To my left -- you can't see him, you may have seen him come in -- is my guide dog, Hogan, who has found a little piece of a bagel, I think on the floor.

[Laughter]

MR. LEAHY:

Guide dogs do have fun, just so you know.

[Laughter]

MR. LEAHY:

But it reminds me of when we were putting HAVA together at the staff level, Jim Dickson was a constant presence, being from the Association of People with Disabilities, and Jim would bring his

dog, Yankee, at the time, into the office, and my dog at the time and his dog would, like, run around the office a little bit and hang out. So there was definitely this, like, personal side to HAVA. And Jim, thank you for your leadership on election reform and disability provisions in particular.

But thanks for having me here today. As Doug and Alysoun mentioned and Commissioner Hicks, I'm sure, will shout about, too, this was a bipartisan, bipartisan effort.

And I had a couple points to leave with you on HAVA. I remember being in the room, and it took a couple weeks to craft just this Board on paper and the tradeoff of this group versus that group and how do we balance this and party affiliation and making sure that it ran well and worked well. And it was a carefully balanced compromise, and I think it was just such a good thing to see that, to see everyone working together. You know, the people, Leslie is here and Linda and Jim and Commissioner Hicks and Alysoun and Doug, and I don't think -- and Jim, obviously. And you know, I remember many times going up to meet with them, and they would come meet with us for hours and hours.

But I wanted to lead off with just this idea of bipartisanship and working together. There was a gentleman who was my boss, so I worked for Chairman Ney in House Administration. And then my immediate boss was a guy named Chet Kalas. And I don't

know. You all probably remember Chet if you were around back then. A Democrat state administrator from Ohio, who the Chairman was good friends with and knew he was a practitioner and understood government, and he said, come out here and help me put this bill together.

And Chet quarterbacked this bill. He would take any meeting with anybody. He would listen for as long as they wanted to talk, and I was Chet's assistant in this process. And just seeing that and learning from him and seeing that theme come through the bill. And Alysoun and Doug would come in, and we'd meet with them for hours and how it just came together with the groups and, you know, all of us working together. It's no mistake that HAVA passed with 92 votes in the Senate and 357 in the House. That's pretty good bipartisanship.

I will keep it brief. Doug and Alysoun mentioned the importance of the disability provisions in HAVA. I remember it was late summer of 2001, and there was a Presidential Blue Ribbon Commission that had been instituted to come up with some ideas to throw into the pot as we were working on the bill. And they came in and briefed us, and it was very well done. This is Ford-Carter Commission. And a gentleman named Phil Zelikow was the executive director.



And after their briefing to us, which was fantastic, he pulled me aside, and he was like, hey, I just wanted to let you know, just came from the Oval Office meeting with the President, and he told me that one of the major things he wants to accomplish with this bill is to make sure that people with disabilities had a private and independent vote. I was like, okay. We'll take care of it, sir.

[Laughter]

MR. LEAHY:

So we did, but it was a lot of work. And organizations, like National Federation of the Blind, and Jim's organization, American People with Disabilities, Paralyzed Veterans of America, we had a disability working group that would meet all the time. And just crafting that and making sure that Senator Dodd's folk were happy with it and that Hoyer's people and the Republicans were happy and just putting it all together was quite remarkable.

And I think you definitely see it today with the EAC. You have 50 million Americans with disabilities that are of voting age population. This Commission has made extraordinary progress in working with election officials to provide election officials with tools and to provide the voters with disabilities with options and privacy and independence.

And then I'll just close with looking head. Alysoun and Doug mentioned that one lesson from HAVA that I certainly took from it

was the importance of pushing through and persevering. And HAVA almost didn't happen probably like four times. The one time I definitely remember was after 9/11, and we stopped meeting for maybe a couple weeks, and we were working on security of the Capitol and keeping Members safe and airlines, and it just kind of fell off the radar.

And I remember Steny Hoyer and Bob Ney got together, and they brought us in, and they were like, hey, we just need to know that if there ever was a time that a vote was important and democracy was important, this certainly is it. And we got back together and started moving forward, and you know, eight, nine months later, you know, HAVA happened.

So that's certainly one lesson I learned from HAVA: persevere, on this Board or in election administration. And then also, the idea of pushing the envelope a bit. We certainly did it with disability provisions, with some of the technology provisions in the bill. The VVSG was a modernized piece that was at the FEC and then came over to EAC and I think has continued to become more and more innovative. So I would encourage you to look outside the box and make sure that you're doing that.

And the third point for looking ahead is just working with state and local folk and practitioners of elections. That's where the heart this bill was, the heart of HAVA is a practitioner's bill and the

hours and hours and days and days of meetings that we did with the stakeholders and the groups.

So I look forward to the questions. Thank you.

COMMISSIONER PALMER:

Well, I'd like to thank all three of the panelists. With that, I'd like to give Commissioner Hicks a few moments to talk about his reflections and the service on the Commission. And then perhaps, as we have Linda Lamone here, and we can start to ask some questions.

COMMISSIONER HICKS:

Thank you, Commissioner Palmer.

The only thing I would really add is that, on Monday night, I spoke at the Scalia School of Law, and I want you to take that in for a second.

[Laughter]

COMMISSIONER HICKS:

The fact that --

MR. DICKSON:

Louder.

COMMISSIONER HICKS:

It's right in front of me. Okay.

[Laughter]

COMMISSIONER HICKS:

So I was saying that on Monday night, I spoke at the Scalia School of Law, and I was invited there to hear the students give their presentations on the projects that they were working on. And I had a reflection on the fact that -- and Pat brought this up -- where HAVA passed 357 in the House and 92 to 2 in the Senate. And those two senators who voted against it were two Democrats from New York, for various regions, but it was --

CHAIRWOMAN MCCORMICK:

Hillary Clinton and Chuck Schumer.

COMMISSIONER HICKS:

There you go.

[Laughter]

COMMISSIONER HICKS:

But it was really interesting to me in that we've gotten away from the fact that we all came together for a common goal of improving elections. And now, it's more of people are in their own silos, whether or not that's black, white, Republican, Democrat, East Coast, West Coast, whatever. And we need to get back to the fact that in order to get anything accomplished, you have to go across that line and talk to other people, because as Hoyer told me a few weeks ago when we went in to meet with him, they didn't get everything they wanted out of HAVA. They had to give some things up. And people don't want to give anything up. They want to be

able to say I won this, I won that, and that's not the way that we're going to get anything accomplished and how we're going to get anything moving forward.

So this Board has a unique opportunity, again, to work together as you are all from political different backgrounds, different ideologies, and so forth, to actually keep improving the agency. And I look forward to working with all of you for that very reason. You know, I have a unique perspective in that when I was lobbying for what became the Help America Vote Act, I worked for Common Cause. And then, you know, got called in to interview for the position in House Administration the day after my oldest daughter was born. Took that job a month later and now she's almost 20 years old. And you know, I was only 15.

[Laughter]

CHAIRMAN MOORE:

Nice try.

COMMISSIONER HICKS:

And you know, now, looking back as, you know, being a Commissioner here at the agency and helping to implement, you know, the law itself is really great.

And so, the other piece that I would say is that there were a lot of unique individuals at that point. You know, I think back to people who basically became family, like Leslie and Ronnie

Gillespie, who was basically like a grandmother to my kids when we would go out to dinner at least once a month and just trade, you know, stories and things like that.

And I think that, you know, we've lost a lot of good people in those 20 years that we've seen this act become law. And so, you know, as we move forward for the next 20 years, stay in touch with folks, and let's see if we can improve upon it and, you know, implement this and see where we can go.

So that's it.

COMMISSIONER PALMER:

Thank you Tom. Open it up for questions?

CHAIRMAN MOORE:

Any questions of the panelists? Cleta?

MS. MITCHELL:

Cleta Mitchell.

I'm just wondering, looking with your history, and I love hearing the story of legislation being made. I don't think it's like sausage. I always love it. But what are the things that you think need to be changed? What are the policy decisions that were made, are there any particular ones? I just was thinking about the question that Eric asked yesterday about that the labs for the testing had to be private, for-profit.

I'm just wondering if you have gone through and think, we wanted to do this but we didn't get that, or after 20 years, this was a mistake, this needs to be tweaked? Because I think we need to be looking to the next 20 years, so you're the best people to ask that question. And if you haven't done that, I'm wondering if there's a way to do that, because I know the Commission is hesitant to go to Congress and say, we'd like you to rethink your policy decisions.

[Laughter]

MS. MITCHELL:

But there's some people who really ought to be thinking, this needs to be changed or that needs to be changed. So what would those be?

MR. LEWIS:

Obviously, I'm out of the business now. I'm 77 years old, which means I'm almost old enough to be a poll worker.

[Laughter]

MR. LEWIS:

Where we are in this, look, I think there's always going to be concerns, particularly when it relates to voting equipment, as to whether or not so-and-so has access to the voting equipment and how that process is done. If the process is not perfect, well, this is a resilient deal. We can evolve over that.

I will say to you, because no testing process existed anywhere in the world except for first what NASED created, and then was taken over under the law by the Election Assistance Commission, that process has evolved well. It's taken time. It took a long time to get people's agreement to actually on the first set of standards that were out there. And the revision of the standards takes a while because it's not instantaneous.

The Commission, I think, has adapted well because it moved from very prescriptive stuff to very objective-oriented, outcomes-oriented, in terms of standards.

And so, if there's some concern about the way it's done, that's up for discussion. But remember that because you feel a certain way -- and I'm not talking specifically about you, I'm talking about any person who has an idea about how it ought to be done -- if you can't build a majority to get that done, then you're probably not going to get it done.

And so, the process under HAVA is not perfect. As all of us have learned, we've made mistakes along the way, but I'm going to say to you, as a bipartisan piece of legislation that actually pumped money into the process and listened to elections administrators about how to make this work, we didn't try one size fits all. We made it so that each state got to call its own shots in terms of this, and it designed a plan to get there, a written plan to get there.



And so, I'm one of those that thinks you rarely live in static places. Change is the natural order of things, and so if we need to make some changes, we can certainly do that. I mean, Commission is perfectly suited to do that, because it's bipartisan.

MS. MCLAUGHLIN:

I'll give two, and I alluded to them in my remarks earlier, but the first one is that it's time for us to take responsibility. And by us, I mean we, as a community, take responsibility for policy choices about where the money goes. The per capita block grant approach -- and this is happening where, you know, we're seeing more of a dedication of federal funds that are given out being for specific purposes, but at a certain point, headcount money doesn't go very far. And if we want to accomplish things at the street level, then we need to focus-in on what it is that we, as a community, want to see those funds spent on in order to achieve outcomes.

The second thing I'll say is that we've got to fix the Paperwork Reduction Act problem for the EAC. You know, it's an oversight. I'm not aware of anybody who intentionally meant to not have the EAC go by the same rules as the FEC Office of Election Administration did. And there's just no reason to make things inefficient for them, as an agency.

MR. LEAHY:

I'll mention a couple of areas. First, there is a good reason why, in 20 years, you've only seen a few tweaks to HAVA. I think MOVE Act did a few tweaks, but it has stood the test of time. Obviously, there are areas of it that could use some adjusting.

One area that I'll mention that you've heard about quite a bit already is the area of non-voting technology. And you know, the Commission is doing an ePollbook pilot, which is extremely important, and then the idea of expanding that to include, you know, ballot-marking systems and other non-voting technology.

I think that's really important, and especially on the accessibility side, I have played around with some of those systems, and accessibility can be mixed on them, so I think that's certainly one area, which is in the broad area of technology, because obviously, in 20 years, technology has advanced immensely.

So there would be a few areas I think could be taken a look at.

COMMISSIONER PALMER:

Any other questions?

CHAIRMAN MOORE:

Jim had a question.

COMMISSIONER PALMER:

Jim?

MR. DICKSON:

It --

COMMISSIONER HICKS:

Louder.

[Laughter]

MALE SPEAKER:

It's a tough crowd. I'm telling you.

MR. DICKSON:

It's less a question than an observation and a thank you.

Justin Dart, Jr. was the man who conceived of the Americans with Disabilities Act, took it from an idea to a law. And he would always say to us, it is much easier to pass a law than it is to implement a law. And the EAC Commissioners, staff, this Board, the Standards Board, the VVSG process have actually implemented the law to a degree that constantly amazes and pleases me.

And I think we do need to spend some time thinking about what to do next. Doug used to say all the time, running an election is not rocket science. It's harder --

[Laughter]

MR. DICKSON:

-- because our moving parts are people. And I do think we need to spend a fair amount of time figuring out how we can reach the small, rural election offices, the new election officials, and get them

the tools and the processes that can help them do their very, very difficult job.

So thank you.

COMMISSIONER PALMER:

Thank you. And with that, we'll wrap up this panel.

CHAIRMAN MOORE:

We have one more point with --

COMMISSIONER HICKS:

One quick thing.

CHAIRMAN MOORE:

-- Commissioner Hicks.

COMMISSIONER HICKS:

I wanted to thank Linda for her years of service on this Board and continued service on this Board.

[Applause]

MS. LAMONE:

Thank you.

COMMISSIONER HICKS:

She ran away from the mic, because we were going to ask her to say a few words.

CHAIRMAN MOORE:

Thank you, Commissioner. Thank you, panel, again. Let's thank the panel, first of all.

[Applause]

CHAIRMAN MOORE:

It's not every day you can have a meeting with your founding fathers and mothers, so --

[Laughter]

CHAIRMAN MOORE:

-- this really was something. I've learned an awful lot, and I thought I new a lot about HAVA.

Here's our dilemma. We are running a little bit behind, about 10 to 15. We have a 15-minute break, and we also have -- so we have to choose between being 15 minutes late for ending or cutting our break down or eliminating the break, so --

FEMALE SPEAKER:

Eliminate the break.

CHAIRMAN MOORE:

-- I'm open to suggestions but --

MR. JOINER:

Five-minute break.

CHAIRMAN MOORE:

Keep going?

CHAIRMAN MOORE:

Five-minute break. All right. We're going to do a five-minute break, and please come back. If you don't have to leave, that's fine, but we do want to get right back to our final panel.

[Recess]

CHAIRMAN MOORE:

We're now going to start my favorite part of this agenda, where I get to be a presenter, and I'll turn it over to Commissioner Palmer.

### **NVRA AT 30 ROUNDTABLE DISCUSSION**

COMMISSIONER PALMER:

Thank you, Mr. Chair.

This last panel is really about, the discussion is more of the NVRA at 30, and as we talked about HAVA at 20, we then started to think about the National Voter Registration Act at 30. And you know, we'd love to hear from the Chair, Greg Moore, and others.

You know, the NVRA was commonly called the Motor Voter Law, and I think most people still see it that way. It's sort of that transaction at the DMV, the driver's license agencies, or other public agencies within state government. The four major functions or objectives of a law are really informative, and we can draw our own conclusions and discussions on those four goals.

And I'm just going to read some of them. To establish procedures to increase the number of eligible citizens to register to vote for federal office. And to make it possible for federal, state, and local governments to implement this act in a manner that enhances the participation of eligible citizens, to protect the integrity of the electoral process, and to ensure that accurate and voter registration rules are maintained.

And so, that is actually, for a federal law, a lot to do. And as a practitioner, when I first became aware of the NVRA, it was sort of like the rules of the road. There are some difficulties in complying and sort of conforming procedures to this, but it sort of laid out the major objectives and said go to it within these guardrails.

I think that the importance of it obviously is when you talk about accurate lists and increasing voter registration and opportunities, those are major goals, and that was really the purpose of it.

I think that one thing -- I'll just end here -- is that what does the EAC do with regards to this? I mean, I think it's an important role, because the Congress passed this law, but it wanted to have data that could be provided to it as part of, you know, how is it working, what isn't working, what are statistics about it? And so, the EAC EAVS survey, which is the election administration survey,

we provide the results of that every two years to the Congress in a report. And so, we took that responsibility over from the FEC as part of the NVRA, and so it's been a major part of the EAC. It's a major function, and people really look at those statistics closely.

And so, I think that, you know, moving forward at the NVRA 30, we at the agency, we hold the federal form. That's had issues, you know, moving forward on that, on certain aspects of it, but I think that the surveying of data is vitally important to the agency, allowing groups like this to take a look at that, and so what is working, what is not, what may need to be tweaked.

With that, I'm going to turn, really to get more of a history about the NVRA and sort of its thoughts going back 30 years and the passage of it, to Greg.

CHAIRMAN MOORE:

Thank you, Commissioner.

And again, there's a lot of people in this room who can add or subject from what I'm going to say, and I'm going to ask you to do that if you could. But I'm going to do something close to what Doug was trying to do and Alysoun and Pat is a little bit of the legislative history. I think it's important because it may help explain some of the nuances that we're dealing with now in terms of how we got to where we are.



Just my own personal history of it, I worked in the late '80s on presidential campaign, particularly -- well, I can say, I was working with the Jesse Jackson campaign, so that's '88, so that's how old I am.

[Laughter]

CHAIRMAN MOORE:

But back then, you had to go around the country when you worked in the primary, and we were actually in 38 states, so it wasn't like we were tweeting in 38 states; we were going to 38 states.

[Laughter]

CHAIRMAN MOORE:

And so, my only job in the campaign, which was not a campaign job at all, it was just doing the voter registration. And so, that was where I learned firsthand how difficult it was in the country to register to vote, depending on where you lived.

And so, doing registration in Louisiana was a lot different than doing it in Ohio or Michigan. And we found out the hard way, doing rallies and doing these type of events on college campuses -- and I was a student organizer at the time -- was very difficult, and the rules were just completely different.

That's how I got involved. But there were coalitions around that were pushing for different things. In fact, three coalitions.

One was pushing for same-day voter registration, and that was certainly where I was aligned with. The champion for that on Capitol Hill was John Conyers.

Then there was a group of people who were working to try to get agency-based registration. There were folks doing voter registration in lines for welfare offices and unemployment centers, and those were people on like Project Vote and others. They were basically trying to say poor people need to be registered, and we can't do it unless we go to where they are.

The other group was trying to do it through Motor Voter, basically taking the model that Bill Monroe had championed in Washington State to say let's use the Motor Vehicle registration apparatus to get people to register to vote that way. I think there was a model by Secretary of State Bill Austin in Michigan as well that was the pioneers or the early start of the Motor Voter concept.

So those kind of three groups of people were floating around, doing their own advocacy. And so in 1989, it was the efforts of Congressman Al Swift from Washington State, who just happened to be a friend of the Speaker of the House at the time, Tom Foley, and it was the Congress effort, which was the H.R. 17, which was the Same Day Registration Coalition, which was a pretty big coalition at the time. A lot of the advocacy groups who wanted

same-day registration, like it was in Minnesota and Maine and a few other states, that had a very high registration rate.

The reason it was a crisis was because it was, at that time, barely 50% of the people were turning out and voting. I mean, we really had a wider disparity than we have now of people who were not registered to vote based on income, based on race.

And so, those statistics were there. If you were an African American or an urban person or a low-income person, your registration rates were under 60%, but if you were in a higher income level or if you were not one of the people of color, it was a 70% range. And so, we were trying to close that gap.

The people who worked on Motor Voter thought, because 92% of the people in this country had driver's license, and that was the most efficient way to do this, and it was an agency that also collected data and had photo IDs, and so that was a good way to do it.

But if you look at states, like Wisconsin and others, we knew that there were certain people who didn't have driver's license. The State of New York was a perfect example. Many New Yorkers do not have driver's license. They didn't have driver's license there or don't drive cars there, and so there was a less of an incentive, so a lot of people were being disenfranchised. So to just pass a Motor

Voter, by itself, was considered disenfranchising. So many people did not support the Motor Voter bill for that reason.

Those of us who wanted same-day registration thought that was the only way to get around the purging that was being done and around the inaccessible registrars. You could just show up, vote, and we wouldn't have this problem with all these ways.

And again, for 30 seconds, to try to get somebody registered to vote in Xavier University, Louisiana meant you had to get approval from the registrar. They had to approve somebody coming out to your site. They sometimes showed up with 25 cards, so if you had a rally, you had to fill those 25 cards out. They had to take them back to the courthouse, or wherever they were, and then you'd have to make another appeal for another 25 cards. It was that kind of thing going on.

That went on for a long time, and the night the first press conference to support this new bill was really 1989, when Speaker Foley and Swift found a bipartisan partner, Bill Thomas from California, to cosponsor this bill. And Al Swift was the Chair of the House Administration, the Subcommittee on Elections, which is where the Motor Voter bill was originated. And I was, at the time, an activist. And we had tried four times to pass that bill.

Three of the times -- and correct me if I'm wrong, Tim, but I think we had problems with getting the 60 votes for the filibuster.

So even though there were 57 Democrats in the House, we still couldn't pass it because it was several Democratic Senators who didn't vote for it, who voted with the Republicans for the filibuster. So it was a bipartisan block. It wasn't just, you know, one party doing it. And I won't call their names, but yeah, we had trouble getting to 60.

MALE SPEAKER:

Go ahead.

[Laughter]

CHAIRMAN MOORE:

No, we won't do that.

[Laughter]

CHAIRMAN MOORE:

They were South of the Mason-Dixon Line, for the most part. But the point was that they were good Democrats, but they just didn't like this idea. They weren't the only ones. There were other people in other states that didn't like it, either, because under our analysis, a lot of people could be registered, and we would get away from this idea that it was a privilege and not a right to vote.

And so, we did several votes. Even though we were able to get bipartisan support on the House side, there were so many things that were done to the bill that made it less desirable for many people in the divided community, and one of those things was a list-

cleaning mechanism that was imposed on the bill by Congressman Swift in his compromise with, of all people, Newt Gingrich. But this was when he was a Minority Whip.

So the idea was that there would be a bipartisan bill. It would be a bill that we all could agree with in the advocacy world, but it would have no chance of passing. And that was our kind of dilemma that went on for several years.

Motor Voter had four bites at the apple. The first vote, we got enough votes. We lost at filibuster. I believe the vote was, like, 56 votes. Another year and a half later, we tried it again. We got to 59 votes. And then we actually had 60 votes at one time, and Senator Specter, our great friend from, where?

MR. DICKSON:

Pennsylvania.

CHAIRMAN MOORE:

Pennsylvania? He was our 60<sup>th</sup> vote. But he said he would be the 61<sup>st</sup> vote and not the 60<sup>th</sup> vote. And so, when we had our 59 votes, he just couldn't do it, so he was with us for 61.

So those kind of things happened. So we lost three filibuster votes over several years. Mitchell, George Mitchell was our Majority leader.

At the end of the process, there was an election and Bill Clinton won and became President in 1992. And so, after losing

the filibuster, I should've mentioned that the last time we did pass it in both Houses and beat the filibuster in 1992, it was vetoed by President George W. H. Bush on July 3, I believe, which is one day before the country's birthday.

Anyway, so we lost three filibuster votes, and we had one veto, and so the only way this was ever going to pass was if there was a new President, and there was a new President in 1993. And so John Conyers, in his great wisdom, hired me, as an activist who had been working with the coalition for years, to be his legislative director, and I had no experience in Capitol Hill, but he did tell me that if I got on his staff, he would let me work on the Motor Voter as my number one priority.

And so, we wanted to do it in the first six months of the President's term, and that's what we did. But it was only because this man sitting next to me worked with coalition partners, including the disability community, to help us get over the hump. We did not have what we needed, because there was still a split in our coalition. A lot of civil rights organizations would not sign-on to a bill that had a national list cleaning mechanism that could really remove people more than it could actually keep people being added to the list by the mechanisms we had to add people, which is agency-based registration, postcard registration.

One more thing, and then I'll turn it over to Jim. When I started this in the late '80s, only 27 states had postcard registration, and so if you didn't have postcard registration in your state, it was pretty damn hard to get registered. And so this bill made 50 states have one standard form for voter registration, and then states could also have their own form.

But those kinds of reforms were landmark, we thought, and we thought they were important enough to pass. It was the first major bill that we thought was the most important since the Voting Rights Act.

But Jim can tell us how we actually finally won the bill at the end, and then we can go into a couple more thoughts.

MR. DICKSON:

Thank you, Greg.

I have one of the pens that President Clinton used to sign the Motor Voter Law.

[Laughter]

MR. DICKSON:

I keep it in my sock drawer --

[Laughter]

MR. DICKSON:



-- to remind me in the morning that one of the pieces of the law has never thoroughly been implemented, and that is the agency-based piece.

As Greg said, poor people of white, black, doesn't matter what color, Native Americans, and people with disabilities at the time were drastically under-registered compared to the rest of the population. There was a huge gap.

President Clinton gave that pen to Professor Richard Cloward, Columbia School of Social Work. Richard, with his wife, Frances Fox Piven, had pushed the idea that if we could get the social service agencies that are in contact with poor people to do voter registration, we can close the gap. And they tried for about six years to get social service agencies, private and public, to voluntarily do voter registration.

At the time, I was working for an organization called Project Vote. I'd been thrown out of many public and private social service agencies, because I was there, trying to register the consumers to vote.

Now, I know that may seem -- I was once even arrested, you know? It was in a food stamp office, and I was there to say, would you like to register to vote? And they took me to jail.

[Laughter]

MR. RITCHIE:

Okay. What state?

MALE SPEAKER:

Pennsylvania.

FEMALE SPEAKER:

Florida.

MR. DICKSON:

Pennsylvania.

[Laughter]

MR. DICKSON:

Pennsylvania. Minnesota, which is rightfully always very proud of their high voter registration and high voter participation rates, had Motor Voter, but Senator Packwood, Republican at the time, voted three times to not allow Motor Voter to be extended to the country.

The disability community, which was very active in the state, met with him and his staff several times and always got a blah, blah, blah, we'll see, but it was basically a no.

So Senator Packwood, on a Friday morning, had called a press conference to announce something that he had put together that was good for the state. I don't remember what it was. But the disability community, the local folks -- I was still here, in Washington, but the local disability community put out a press release, announcing that they were going to Senator Packwood's

press conference to announce that he was opposed to people with disabilities being registered to vote.

This concerned Senator Packwood.

[Laughter]

MR. DICKSON:

He canceled the press conference, which was fine with the local disability folks, because they got to talk to the press. That was a Friday. He came back to D.C. -- I don't remember whether it was Monday afternoon or Tuesday morning -- and announced that he would be the 60<sup>th</sup> vote to pass the Motor Voter law, the National Voter Registration Act, and we got Senator Specter to be 61.

CHAIRMAN MOORE:

Yeah, and Durenberger.

MR. DICKSON:

And Durenberger.

CHAIRMAN MOORE:

Right.

MR. DICKSON:

Yep. So, you know, again, that was about an eight-year struggle. The voter registration gap for people with disabilities is almost gone.

The voter participation gap, I'm hopeful the about-to-be-released Rutgers study, will show that the participation gap, which

has been only a couple percent, maybe we've reduced it, but we still have a long way to go, because while we've increased the participation in general elections of poor, minority, and people with disabilities, one of the huge problems that contributes to this awful polarization is that most Americans do not vote in primaries.

Primary voters pretty consistently, it's about 50% of the registered voters. It's the extremes of both parties. And I don't know how we address it, but if we're going to ever breakdown the polarization, we're going to have to increase voter participation in the primaries.

Thank you.

CHAIRMAN MOORE:

Thank you, Jim. So let me close with this, and we'll open it up, Mr. Commissioner.

I had a glaring omission. I left out the role of the Rules Committee and Senator Wendell Ford from Kentucky, who was battling his great friend, Mitch McConnell, on this thing the whole time. But also, George Mitchell was from Maine, and he was the Majority leader and had 57 votes, but he had same-day registration, so to him, this was not a problem. And so, the three of them really had a big role. I was speaking from the House side.

Let me close by saying this. So it took 128 years from the adoption of the U.S. Constitution to grant women's right to vote. It

took 167 years to grant all Americans the right to vote with the Voting Rights Act of 1965. It took 174 years to grant 18- to 21-year-olds the right to vote with the 26<sup>th</sup> Amendment in 1971. And it took 197 years for there to be one national standard for registering people to vote in the United States. And again, 207 years before the Help America Vote Act came around to give a standard for how to count votes.

So this is a long process, a historical process, and it's just something that I thought was important for us to talk about from a historical perspective, and it was bipartisan. Again, I'll just end with that.

The struggle was getting it passed on a bipartisan basis, and I'll always believe that -- and I learned, I didn't start this way -- if you can pass it on a bipartisan basis, you can implement it on a bipartisan basis. But if you pass it on a partisan basis, you're going to be stuck in litigation for the rest of your history with this bill.

So I'll stop there and turn it back over to the Commissioner.

COMMISSIONER PALMER:

Well, thanks. And I alluded a little bit in some of my opening comments. I think that the hearing that we had on list maintenance was very informative. I was told, when I first got in the business, that, you know, Motor Voter was sort of like at the culmination of a 20-year period of trying to get that bill passed, right? But it was

very paper-based. And then as we are now more in a digital society, it's becoming more difficult from a registration and from a list maintenance perspective. I think online registration is the second most used now form of registration. It is often tied to the DMV.

But how do we -- you know, I'll make this a question, and then I know Cleta wanted to weigh-in on some things here. But my question for the group is really how do we deal with sort of, you know, 30 years after NVRA, in a more digital society, when people aren't using paper as much, but the NVRA, you know, is very paper-based? And I'll just put that out there for conversation.

Did you want to weigh-in, Cleta?

MS. MITCHELL:

Not about paper.

COMMISSIONER PALMER:

Okay.

[Laughter]

COMMISSIONER PALMER:

Well, go ahead.

MS. MITCHELL:

Well, I mean, this is really interesting, and I think that the objectives of the NVRA, particularly in the voter registration realm,

they've been solitary. They've worked, so you should be very proud of that.

I would like to say that my big concern is on the other side of the fence, which is list maintenance, and I'm really glad that the Commissioner had a hearing about that. I think that there are some things that ought to be taken out of the bill, going forward.

I don't think the federal government should be directing state and local governments about when they can and can't, how they can remove bad registrations, when they can remove bad registrations. I think that's broken, and I know that there are citizens all over this country who have been spending a lot of time doing a lot of pretty amazing work, identifying all the duplications, identifying all the dead people, all the, you know, 15 people registered at the same residence, none of them live there.

In a vacuum, maybe that's not so bad, but when you also have jurisdictions that have passed laws that say that everybody on the list gets a ballot, not an application, but a ballot, a live ballot, as is the case in Nevada, and there are simply huge problems in the registration list, that's a big problem. And people are rightly concerned about the state of the nation's voter rolls.

So I'm hoping that maybe there can be a bipartisan solution to agree that the voter rolls should be accurate. The American people think the voter rolls should be accurate. That's something

that people agree on. The citizens agree on it. Maybe not the election community, but the citizens agree on it, that voter rolls should be cleaned, and they should be accurate. Cleaned regularly and accurate.

So I think that Congress doesn't have any business telling states when they can remove people, how they can remove people, how long they have to stay on even if they're shown to be, you know, two federal election cycles or whatever the number of election cycles. I just don't think that Congress should be -- that is a one size that doesn't fit all, and that's something that I'm hoping that Congress will take into account. I think that's one of the things that needs to be changed.

And the federal form, federal voter registration form needs to have proof of identity and citizenship. You know, it's a violation of federal law for non-citizens to vote in federal elections, and there's really a great concern that the federal form is not sufficient to establish that the person who's registering is actually who they say they are.

So to me, those are just commonsense fixes that Congress needs to make and that there's great consensus among the electorate about those things. So those are my thoughts.

COMMISSIONER PALMER:



Thank you, Clea. Any other comments or questions? Sure, Isaac, just briefly, and then we'll go to John.

MR. CRAMER:

For the record, election officials do care about list maintenance and accurate voter rolls. That is actually the number one, top priority, and to suggest otherwise would be incorrect, because I know, for a fact, that we want to follow the laws of our states, the federal laws. We swear to uphold that. We all took even an oath here, so I think the common sense is -- and we all agree on that issue.

And I think the greater issue is how do you make that work across 50 states. And that's going to be the million-dollar question, a million-dollar answer, and whoever can do that will be very wealthy who can come up with the golden ticket for list maintenance across 50 states.

I'm going to tell you that, yes. Is there a problem? Yeah. But there are solutions, but people are leaving those solutions, and the states don't talk to each other. I live in South Carolina, and my neighbors to the north don't participate in sharing agreements.

So we have bigger issues that even states that neighbor each other can't agree on how to do list maintenance together. And there's a lot of moving between South Carolina and North Carolina and going to Florida.

So I think that we when we look at, federally, what can be done, there are solutions, but the problem is, it's not going to make people happy when you propose federal legislation that's going to oversee election administration across 50 states. So I think the avenues are there. It's just going to be a hard sell to, you know, 50 states about, hey, we're going to have you all part of a program that tracks voter registration, and I think that's going to get a big no from a lot of people.

[Laughter]

MR. CRAMER:

So until that answer's there, I would say everybody here wants correct voter rolls. We 100% do. When I get an e-mail of concern, I don't ignore that e-mail. The problem is you can't just remove people because somebody knocked on a door. There's a lot more that goes into that.

Also, not everybody's honest, and that's on both sides of the aisle.

[Laughter]

MR. CRAMER:

It doesn't matter who you are. On both sides of the aisle, you have people who do lie, and they will tell you something. They'll say, I signed an affidavit, but that doesn't mean that you can

trust them, because for one, people can be intimidated by those tactics.

We got calls in Charleston County for groups going door to door, knocking, and posing as election officials when they were not election officials. So we have to do a really good job in any approach we do, because this is not just a small issue. It's a major issue, and you have to deal with a lot of different segments of the population. You have rural, urban. You have people that don't have access. You have people that don't have transportation. And you have people that may actually have a lot of people live at that address because of generational things.

So you've got to be cognizant of all the different things that go on into elections. So I really love this conversation about list maintenance. It's one that I want to see done, but the problem is we have such a polarization right now around this subject that I don't know if we can actually solve it without everybody say, well, that's not doing it the right way, because you're going to have to have compromise.

COMMISSIONER PALMER:

So I'll take the moderator's privilege here and just ask you a question. You know, what do you need in Charleston? What would you need, as a local election official? I mean, you know, there are some discussions on statewide -- I mean nationwide organizations

that you alluded to, but what do you need at the local level to make your rolls cleaner?

MR. CRAMER:

I mean, I think there's just so much variance from state to state, you know. What you do in one state, we don't do in South Carolina. I know that some states do the national change of address, NCOA, with U.S. Postal Service. There are resources that are there that could help, that there's federal parameters around. I mean, the U.S. Post Office, I'm going to say this, people change their address with the post office. They change their address at the DMV. They change their address for tax purposes. We have information available.

The problem is we're in government, and you have a million different agencies that don't talk to each other. They don't. And honestly, it's a lot of egos. So if you could have somebody who comes in and helps mitigate that or compromise is seen, where you have a table like this, where you have state leaders of agencies and federal agencies come together and not just a bunch of think-tanks talking about it. You actually have the people who implement it in the room. You could actually see positive change. Because honestly, where the one-size-fits-all doesn't work. I agree with that. But at the same time, we need to have some overarching framework for how we do this. It's not possible without that.

MS. MITCHELL:

Could I respond to something?

COMMISSIONER PALMER:

Just briefly. Then we need to move onto John. He had a question.

MS. MITCHELL:

I'm suggesting that what needs to be done is that Congress needs to repeal some of the restrictions that are currently in the NVRA that keep states and localities from deciding what they're going to do on list maintenance.

By the same token, some of the most important data that is available, that should be available, are federal databases. The Social Security death database, the SAVE database at DHS, the U.S. Postal Office, USPS databases, not just NCOA, but also the database on vacancies and the types of properties. Those are all federal databases that, in my mind, Congress needs to direct that those be made available for free, on a regular basis, to state and local election offices, because having that data available without having to go search it out yourselves, I think, would be very helpful.

I'm very much opposed to some federal mandate. I think the mandates that are in NVRA and the restrictions need to be lifted, to let the local state governments decide how they best want to conduct list maintenance.

COMMISSIONER PALMER:

Yeah, so Greg and then Joseph Gloria.

CHAIRMAN MOORE:

Just some clarification, not directed to your point, but two things --

COMMISSIONER PALMER:

I'm sorry. John just waved me off, so --

CHAIRMAN MOORE:

Okay. This is going to be real quick. The two things that we stressed in the bill were uniformity and non-discriminatory. That was driving the whole process. We thought there was a need for uniformity around list maintenance. I know in Chicago, you could get (inaudible) every six months back in the 1990s, because that's how often they did it. In some states, they did it hardly ever. I mean, there was always different states doing different things. The idea was to make it uniform.

I think where we err, and others in this room can attest to it, we were afraid to put any funding in NVRA because of the fear that it would be defunded by any Congress that came back after it was passed. And so it was a horrific mistake. I didn't see this problem, until I saw it in real life after the bill was passed many years later, that (inaudible) states and counties were left to pay all those bills to do all the stuff you're talking about, and because there was no

funding, there was a big, big, big controversy on whether or not to make this a funded or unfunded mandate, and it was an unfunded mandate. And that's hurt our ability, and it also led to all kinds of litigation.

So had HAVA not happen, had we not have money that came in from the Help America Vote Act, a lot of this stuff would have been impossible to continue to do. So HAVA actually was a corrective measure, in my eyes, to some of the things we were not able to get done through the NVRA through the Help America Vote Act. I just thought I'd throw that out.

COMMISSIONER PALMER:

Thank you. Joe and then I think, Jenny, you had your hand up.

MR. GLORIA:

Thank you, Mr. Chairman.

I just want to say that I appreciate the comments from Mr. Cramer, and I want to emphasize, being an election official from the State of Nevada, we emphasize the maintenance of the rolls at the state and the local level, and we followed all federal and state law. And following those laws requires us to make sure that we're protecting those voters from becoming unknowingly disenfranchised by canceling them.

And so, I would caution anybody who feels that or calls them restrictions from the federal level. Those protections were put in place to protect the voter. And we can go into a long debate on whether they're too extreme; however, we did follow the law in the State of Nevada, and we had a very effective program. We were members of ERIC, and a matter of fact, we were one of the original members in the ERIC comparison from state to state. And I'm disappointed that there are some jurisdictions that are moving away from it, because that was the solution. And we looked forward to the day when we would have all 50 states sharing that information.

And so, I just have to say that, in the State of Nevada, we were very proud of the fact that we did proper list maintenance, and we worked with the state and ERIC to make sure that we were doing that according to the law.

COMMISSIONER PALMER:

Ms. Carroll.

MS. CARROLL:

So I'll be brief. So I agree with what you just said, Mr. Gloria, as well as what Mr. Moore said. And I share the concerns that Isaac raised regarding how different election officials have to deal with this.

One thing that I would just add to that is I have seen, in Alabama, people who have been removed from voter rolls, who



show up to vote and learn for the first time that they have been removed. They are then required, under state law, to cast provisional ballots, which they have seven days to perfect. For many people, that's an insurmountable burden. And again, I think it's thinking about the right to vote as a privilege rather than a right.

And so, I think there is a value to federalizing this. I am from a jurisdiction that has decided not to rely on ERIC. At the same time, our Secretary of State has raised the issue that she is concerned about inaccuracy in voter rolls. And it just seems like you can't have it both ways.

I would also add that, in states like mine, where it is a one-party state, relying on state legislators to necessarily hear the concerns of minority and underrepresented populations can be challenging. And so, I think there is a value to having a federalized system. And I would emphasize that in Alabama that does have a voter ID law, has one of the strictest voter ID laws in the country, our Governor made a decision to close many of the MVDs in rural areas, which was the primary source of that ID. And that was a state government decision. And when you have 11 out of 13 majority minority counties where the MVD is closed or has limited hours, you are limiting the ability of citizens to participate in their right to vote.

COMMISSIONER PALMER:

Okay. I am the bearer of bad news. That is the end of our session.

[Laughter]

COMMISSIONER PALMER:

This is a great session. I really appreciated this. I do encourage you, each of you, to go to the list maintenance hearing. I think you'll hear from election officials and experts. And the reason I pointed the Chair to that is it talked about some of the challenges that election officials have and what tools they need and some ways that maybe technology could overcome some of the challenges.

So I am the bearer of bad news. That's the end of this session. And with that, I'll turn it back to the Chair, Mr. Moore, for any closing discussion and announcements.

CHAIRMAN MOORE:

Well, first of all, thank you, all, for that. I know we just touched the tip of the iceberg, and there's more to come on that instance. But look at the video. I think you'll get a lot out of it. And that conversation needs to be continued. I won't do it here. I'm so tempted, but I won't. I'll stop.

[Laughter]

CHAIRMAN MOORE:

Let me do a couple things. One is that -- did Mark leave already? Okay. Mark had to leave -- he expressed his apologies -- for another meeting. Did you want to say anything before we get out of here?

First of all, as a big thank you, I have a list of staff here. I thought it was about six or seven. There's actually 17 people on this list. But the fact that the staff went from Phoenix, doing the Standards meeting, to doing us right back-to-back, some of them didn't get a chance to unpack even, is a remarkable feat. I know they can't wait until the hearing is over this afternoon.

[Laughter]

CHAIRMAN MOORE:

But I want us to just thank them for all they've done.

[Applause]

CHAIRMAN MOORE:

Number two, the hearing that we have, Scott, do you want to say anything about the hearing that we have coming up?

MR. WIEDMANN:

Just appreciate the exposure for the military and overseas voters and look forward to seeing you there.

CHAIRMAN MOORE:

Okay. Great. Is there --

MS. IBANEZ:

Can I ask, is that afternoon meeting public, open to the general public?

CHAIRMAN MOORE:

Yes.

MS. IBANEZ:

Perfect. Thank you.

CHAIRMAN MOORE:

Please. Yeah. It's actually in the EAC hearing room, which I haven't ever been to that one. I'm looking forward to going.

So let me do this in my closing remarks. I've said everything I probably can say at this meeting, and it's time to go, but you know, this agency -- and some of you know this about me. I was an avid supporter of this agency and actually served on the Advisory Board when it wasn't even meeting, because we didn't have a quorum.

But there are two people in this room who actually deserve some extra credit and appreciation, and that's our Chair and our former Chair, both Tom Hicks and Christy.

COMMISSIONER PALMER:

'Doug'.

[Laughter]

CHAIRMAN MOORE:

No, I've said Christy McNichols several times. I didn't want to do it, and I've said Doug several times, so I apologize for that.

They were around when this agency only had a couple million dollars in the bank, and they could've easily walked out of here and said, look, I'm going to get another job, or my family has obligations. And I remember when it was just the two of them, and because they stayed at this agency, I think that's why it's around today. So I want to thank both of them for giving us everything they had.

[Applause]

CHAIRMAN MOORE:

And I've chatted with a lot of them over the years, and I just want to thank them, because we believed one day we could save this agency, those of us who were not on it but supported it, and because you stayed and because we got Doug and -- because we got Don, and --

[Laughter]

COMMISSIONER PALMER:

It's 'Don' Lewis, just for the record.

[Laughter]

CHAIRMAN MOORE:

'Don' Lewis. And because we got Ben, I think we really kept this going, so I'm very, very proud and happy, and I'm looking

forward to getting together next year. We do need to chat in the next few weeks about the upcoming meeting in 2024. There are four Committees that are going to be appointed over the next several months. We're going to meet as Executive Committee between now and the end of the summer, but it's the VVSG Committee, the Bylaws Committee, the Resolutions Committee, and I believe the -- is there another one -- Elections Committee. I guess we should have one of those before our next meeting as well.

[Laughter]

CHAIRMAN MOORE:

We won't put Linda through this again. But those Committees are going to -- so if you have an interest in one of those Committees, we do want to chat with you or have some discussions over the next few weeks. There's a NASS meeting taking place here in Washington. Do you want to make a commercial announcement about that?

MS. REYNOLDS:

Sure, we're going to be in D.C. July 12 at the Grand Hiatt -- I'm sorry, July 9 through 12. We'd love to have you register and come. It's, you know, elections talk and remote notarization, business filings. It's very exciting.

[Laughter]

CHAIRMAN MOORE:

And it's a lot more fun than it was when we were going to try to save the agency, because that's what we used to go there, to try to stop the resolutions that would ask for this abolishment of this Commission.

[Laughter]

CHAIRMAN MOORE:

So that's not happening anymore, right?

MS. REYNOLDS:

That resolution sunsetted.

CHAIRMAN MOORE:

Thank you. So that was a long sunset. I have to tell you.

[Laughter]

CHAIRMAN MOORE:

But on behalf of all those --

MALE SPEAKER:

It's called deprecation.

[Laughter]

CHAIRMAN MOORE:

Thank you for coming. Can I have a motion to adjourn the --  
I'm sorry.

COMMISSIONER PALMER:

Last thing. This is the address that you put into your Uber request. 633 3<sup>rd</sup> Street Northwest. That's our building. And we'll get you in one way or the other. So that's what you put into the Uber.

CHAIRMAN MOORE:

All right. And I know a lot of you have cars parked here, and I know Uber or either cabs still work, but I do need to entertain a motion to adjourn the meeting. Is there a motion?

MR. FOGARTY:

So moved.

CHAIRMAN MOORE:

Is there a second?

MR. STARK:

Second.

CHAIRMAN MOORE:

The meeting is now adjourned. Thank you, all, so much.

[Applause]

[The Board of Advisors 2023 Annual Meeting of the United States Election Assistance Commission adjourned at 10:58 a.m.]



