

**Transcript of the Public Meeting
Of the Board of Advisors to the
United States Election Assistance Commission**

The Sphinx Club
Oasis Room
1315 K. Street, N.W.
Washington, DC 20005

Held on Wednesday, June 3, 2009

VERBATIM TRANSCRIPT

The following is the verbatim transcript of the Public Meeting of the Board of Advisors to the United States Election Assistance Commission ("EAC") held on Wednesday, June 3, 2009. The meeting convened at 9:19 a.m., EDT. The meeting recessed at 5:08 p.m. EDT.

PUBLIC MEETING

CHAIR THOMAS:

Good morning all. Hope you all had a good evening last night. Well, we have Ernie Hawkins with us. Welcome. Glad you made it. He flew all the way in from Honolulu just to be with us today.

So, just to remind everybody, we're having pictures with the Governor a little later this morning. So, we'll do that and we'll probably do that just before the lunch break. So, we'll be ready for all of that.

So, at this point I'd like to call on Doug Lewis, if you could update us on proxies, please.

MR. LEWIS:

This is Doug Lewis. On behalf of the Proxy Committee, we have a proxy that was issued by Mr. Donsanto, yesterday. Are you withdrawing that proxy now, or is it still valid upon your absence?

MR. DONSANTO:

If I should have to leave tomorrow.

MR. LEWIS:

Tomorrow?

MR. DONSANTO:

Yes.

MR. LEWIS:

Okay. All right, so we have a proxy filed for tomorrow. It is, obviously, not effective today, while he's here. Elizabeth Ensley has issued a proxy to Bill Cowles, but, obviously, she's here, and so I don't think she wants Bill voting for her today. And Wendy Noren is to have Robin Carnahan, but Wendy is not here, yet, I don't think. And so, at this point we have no valid proxies in effect today. And we will have at least two, and maybe three for tomorrow.

CHAIR THOMAS:

Thank you very much. Jim Dickson, any news on the resolutions?

MR. DICKSON:

As of right now, Mr. Chairman, we have no resolutions. If any Board member wishes to submit a resolution for consideration at this meeting today or tomorrow, the deadline is noon. And you have in the back of your briefing book the resolution form.

CHAIR THOMAS:

Excellent, thank you. So, those of you that are interested, please do so. And remember we have made a switch to motions. So, as we're going through business if there are motions that you are moved to make, please do so.

We're picking up on the agenda at roughly the 9:15 slot for New Business. And I'm going to ask Terri Hegarty to speak on the Election Day Grants Program, and then, we have EAC staff here to give some further discussion on this. As Commissioner Hillman noted yesterday, this was the \$10 million appropriation, where five states each got \$2 million to put together programs on collecting

Election Day data. And we have reports here, and we also have one of the states here. Secretary Cortés was one of the states, Pennsylvania, involved in the program, so I'm certain that he will have some comments on this. This is Congress' way, I believe, of trying to stimulate some innovation and best practices on how to gather data. And we continue to hear how policy developed on the basis of data is a good thing to do, and so, now's the time to start that. I guess that's a good direction to take.

So, at this point I'll ask Terri to give a quick report, and then Karen, we'll come to you. Thank you.

MS. HEGARTY:

Good morning. Yes, as Chris mentioned, a Special Committee on EAC Election Day Data Grants Program was pulled together, and what happened is Congress appropriated \$10 million for Fiscal Year 2008 to the EAC for this program. If you want to check under tab 17, that's where the draft program is and the report. And as was mentioned, a grant of \$2 million to five eligible states to improve the collection of data related to the November 2008 election. Congress also stated that not later than June 30th, which is a little less than four weeks right now, June 30, 2009, the Commission has to submit a report to Congress on the impact of this program.

So first of all, we held a Virtual Meeting in September 2008 to review and comment on the Grant Program Evaluation Plan, and a summary of the notes are attached to this report, if you care to go through those. And then, a few months ago, in February 2009, Chair Thomas appointed our Committee. And I'll quickly tell you

who the members are. I was Chair, but Secretary Pedro Cortés, also, is a member of that Committee. And as was mentioned, Pennsylvania was a grant recipient. So, that was very helpful having them on this Committee. Also, his staff members, a couple of them, helped us through this, too. And their names are Jonathan Marks and Chet Harhut. So, they participated in conference calls and that was very helpful. Neal Kelley was on this Committee and Secretary Chris Nelson. And Chris Thomas, of course, served in his ex officio capacity. So, we met through three telephone conference calls. And the five grantee states are Illinois, Minnesota, Ohio, Pennsylvania and Wisconsin. And during those meetings our Committee received a briefing on the program, including the roles of the two contractors. There were two contractors, RTI International, which stands for Research Triangle Institute, and they did the technical assistance working with the core data they talked about. And also, ICF International, which is the independent evaluator, and they, actually, prepared this draft report that you'll see. So, we reviewed many documents, including the scope of work of the program and the grant application that was used and so on. And then, what eventually happened is we had this draft Evaluation Report, the one that's to go to Congress. And what we're going to do today is discuss this draft report, and we have representatives from ICF, I hope, here, and staff, and discuss that report. And then, we'll be asked to consider our Committee's recommendations on this report.

CHAIR THOMAS:

Thank you very much. Karen, are you going to lead this off?

MS. LYNN-DYSON:

Because I know our time is short, I want to allow plenty of time to get to the substance of this.

As Ms. Hegarty indicated, ICF International was our independent evaluator on this project. The evaluation was competitively bid to do this work, and we have been very pleased with the work that ICF has been able to do for us, in going to all the states and observing and getting reflections on what they saw.

So, with that I'm going to introduce Dr. Diana Davis, who was our principal investigator, and she has a 15-minute, or so, presentation. And we look forward to any and all of your comments and questions.

COMMISSIONER HILLMAN:

Karen, is the copy of her PowerPoint in the Board member briefing books?

MS. LYNN-DYSON:

It's my understanding it is, yes.

COMMISSIONER HILLMAN:

Okay, so it would be the last part of tab 17.

DR. DAVIS:

After page 76.

COMMISSIONER HILLMAN:

After page 76, and it starts with a page that says "ICF EAC."

CHAIR THOMAS:

While folks are getting ready for this, I would also like to just bring to your attention that at lunch today we have two prominent speakers. Secretary Cortés and Secretary Rokita are going to lead

our discussion on the 2008 elections with their observations. And it will be an opportunity for folks to chime in and provide perspectives and comments on how the 2008 election went from your perspectives. So, we look forward to that and I thank both those gentlemen for agreeing to participate and lead the discussion at lunch.

DR. DAVIS:

Good morning everyone. I'm happy to be here and give you an overview of our evaluation of the Grant Program. Can you hear me? I can hear me. First, I'll review the Grant Program and our approach to the evaluation and discuss our main findings and recommendations. It's a big group, but I'm very happy if you just interrupt me with questions along the way, it's up to you, but you may have to get my attention.

As you may recall, the Grant Program provided \$2 million to each of five grantees selected from a field of ten applicants. The period of performance was 13 months, beginning in May of 2008, and concluding the end of this month. I understand that three grantees have applied for no-cost extensions, and have been permitted that extra time of up to 12 months to complete their programs. As we get into this, you will begin to understand why. The conditions of the grant required grantees to report on a set of election data for the 2008 November election at the precinct level. Prior to this, all of the reporting was done at the county or municipality level, so this was something new. This particular requirement of reporting on a handful of data items at the precinct level was the only firm grant outcome requirement. Again, a grant

is, you know, you develop your own program. There aren't a lot of restrictions involved. For the purposes of the evaluation, we called these data items that were required to be reported at the precinct level, we called these the core data. And as we get into the slides and those of you who have had a chance to briefly review the report, you'll see the tables concerning outcomes are on only these core data items. And they're in slide eight, so they're coming up.

A research team consisted of five people. I'm the Director of the program with a lot of experience in program evaluation and survey research. Mr. Rachev has expertise in public administration issues and he's a hotshot survey analyst. And then, of course, Charles Stewart at MIT is our election data collection data user and understands a lot of those issues. And then, we had two assistants also knowledgeable in the areas of public administration and survey research.

Evaluation approach. I apologize for so many words on these slides but it was quite a complex approach. We needed to be aware of the work as it was progressing, as well as the outcomes. We needed to avoid making undue demands on the states during this very hectic time, and as time went by, it became even more hectic for most of them. We also made a great point of recognizing the individuality of the grantees' programs and contributions, as well as looking for generalizations for other states.

A brief word on what we called a "pre-post" model, and that is one of our key outcomes was to compare the states' ability to report on those what we called the core data items before and after

implementing their Grant Programs. So, that's called a "pre-post" evaluation. So, we compared the data they reported on those data items on the 2006 survey with their ability to report on 2008.

Again, I apologize for tiny type. This is the logic model that illustrates our approach. Basically, there are a number of kinds of resources needed for the evaluation that we call "inputs," and then in the sort of the green more central section "outputs," our planned activities and their products. And then, finally in the orange section on the right, the results of the evaluation and of the Grant Program itself.

Our research questions, there are nine of them, and almost no way to get them onto one slide. They, basically, fall into a couple of categories. What did each grantee achieve? How are they now wiser than they were when they began their programs? How can their experiences help others making the same or similar journey?

I mentioned, earlier, the core data items that were on the election survey that were to be reported at the precinct level, and these are the items. The total number of registered voters, totals for active and inactive registered, number of persons who voted, provisional ballot reporting, votes cast by type of location, and then the federal outcome. This comes to between 12 and plus data items.

Yes, sir?

MS. LYNN-DYSON:

Mr. Dickson?

MR. DICKSON:

Jim Dickson. Could you elaborate, specifically, on when you said provisional ballot recording, what does that mean? Does that mean counting the number of provisionals that were handed out, the number that were counted, what?

DR. DAVIS:

Cast, counted and rejected, all three.

MR. DICKSON:

Thank you.

DR. DAVIS:

We, also, for purposes of comparison chose a comparison group of states that did not receive a grant, were not aware of our evaluation, specifically, but were similar to the grantees in a number of ways. Again, there's no perfect match for any state as you are all well aware, but we were able to find states that were similar on a number of dimensions with the grantee states. And these -- the comparison group is Iowa, Massachusetts, New York, Oklahoma and Virginia.

Our approach to the evaluation was, as I mentioned earlier, to pay attention to both process and outcome data, to get input from the grantees and RTI, their technical assistance provider, data from a number of sources. We tracked both the process of implementing their programs and their outcomes using multiple data sources.

Now, we come to our key findings. We compared the grantees on their core data reporting in a number of ways; with their own reporting in 2006, within the group of five grantees, compared to the five comparison groups and compared to all EDS

participants. And we found that overall the grantees reported more data in 2008 than for 2006. The four for which we had complete data, I guess, this was finished the end of April, this report, did an excellent job. We have one state where there was some difficulty in transmitting and understanding the data they transmitted to RTI, and that's Illinois. So, that's why, from time to time, I'll mention four states. RTI is still processing that information. So, overall the grantees outperformed the comparison group states.

Over here, we have changes in, again, the core data reporting between 2006 and 2008. And I thought, looking at all of the states, to give you an idea of the changes, and I guess, we can call these improvements because everything has gotten much better in the two years, the states reporting no core data there were seven in 2006, but only two in 2008. For states reporting 100 percent of this core data, none in 2006, and 12 in 2008. So, overall there was a significant improvement.

Among the grantees, we attempted to rank their position in 2006 and their position in 2008. And, of course, there were a lot of ties within the reports, but we had some really significant achievements. For example, Minnesota was 28th out of the 36 ranks in 2006 and at the very top in that group of 12 for 2008, a huge improvement. Pennsylvania and Wisconsin also made substantial jumps. Ohio and Illinois moved up less dramatically, but they did improve their reporting, even given the fact that we still don't have complete data from Illinois; that is, the file has not been completely resolved.

We have important findings in four areas. Probably, the most significant is timing and schedule. A system change takes time, a lot more time than anyone anticipated. At least, one of the states, and probably more than one, had never written a grant, had never thought in these kinds of terms. And so, not only are they engaged in a very complex activity, but the idea of having a grant and reporting and deadlines and so forth was even more complicated for some of the states.

And also, the second key finding is the importance of involving stakeholders. Even for the most centralized state, you simply can't make these kinds of sweeping changes by fiat or from the top only. You really have to involve all of the people who are going to be using and contributing to the system all along the way.

A third finding is that testing and review are critical to user success, and a number of the states used pilot projects and did significant pre-testing. And these are some of the reasons why three of the states did ask for those no-cost extensions.

Yes, sir?

MR. DICKSON:

Jim Dickson. Would you just define key stakeholders?

DR. DAVIS:

Depending on the grantee, this could be their local election officials. When we're talking about talking to the state people, local election officials, but also data users of all stripe; the political parties within the state, candidates, other data users. I'm sure you're aware that the political science community is very interested in this data. So, that whole array of stakeholders. Even, I'm

recalling in Wisconsin, the League of Women Voters made significant contributions to their discussion of how to plan and design their program. So, it's a very wide net when we're talking about stakeholders. So, pilot projects and pre-testing.

And, finally, training the system users. And again, this includes the stakeholders if we're talking about local election officials. And some of the training packages, and again, I'm thinking of Wisconsin, very sophisticated, easy to use, intuitive training packages. You could see, and we did hear from people who had been trained, and some who had not been trained, that they were going to be able to use this system.

Altogether, we have five recommendations. Not surprisingly, the EAC should continue to take a leading role, we, kind of, like the term the "champion" of efficient election data collection. It's important to take the long view and to work with everyone, and I believe, it's probably somebody like Thomas Dewey said to, "Take people where they are and move them along." In a number of states, and I'm sure you're well aware of this, at the local level, there are really limited resources for collecting election data and reporting it up the line efficiently. They can do it eventually, but efficiently, in a timely fashion that keeps the ball rolling that can be quite a challenge.

Also, get the states talking peer to peer. The grantees were all excited to not only talk to each other, but to talk to other states and to share the kinds of things that had happened to them along the way, the good and the bad. And they had plenty to say about

the pitfalls, as well as the successes and the little unintended consequences of their programs.

Also, to continue to address the need for standardization, in terms of language, vocabulary, data formats, to make this a more efficient process altogether.

And then, finally, to extend future grant periods. Essentially, our grantees had five months from May to the November election to design programs that were going to be more efficient in gathering that November data. That was a killer kind of schedule. And they approached it in a number of ways, all very creative. And, at least four of the five would have benefited significantly from a longer lead time. They really needed to get their tabulation vendors in on the game, and that was not possible, given the fact that the grants were awarded in May.

Yes?

DR. SIMONS:

Barbara Simons. I think you mention it in your report, and you just referred to it as well, the problem of people having different ways of reporting data, of storing data...

DR. DAVIS:

Right.

DR. SIMONS:

...of different categories, and probably, different languages that they're using and different databases. Is there any thought to trying to develop some sort of standard technology or formatting, such that it would be possible to look across the states and do

comparisons? I imagine the social scientists would be interested in that, among other people.

MS. LYNN-DYSON:

We are doing what we hope are successive iterations toward that goal. We, this time around, provided all of the states with two options in terms of their data collection. We had an Excel spreadsheet that was an option. The second was a WordPerfect option. And I believe the majority of the states used the Excel template. And the idea is that we hope the next time around even more will be using a consistent format.

Yes, Dr. Simons.

DR. SIMONS:

Barbara Simons, again. Would it be possible, maybe -- I know that there's some experts here, not me, but there's some experts here who might be able to provide you with some recommendations for more user friendly formats. Would it be possible to, maybe, consult with some of us?

MS. LYNN-DYSON:

Absolutely. Absolutely. I mean, we are very, very open to that. I know that -- I'm looking back at Kim Brace, who many of you may know did the work for us in the 2004 and 2006 iterations of the Election Day survey. And we continue to want to improve and provide consistent format.

I think that one cannot, certainly, underestimate the enormous variance among states, in terms of how they collect their data and they input their data, I think, even for the experts, and I certainly do not consider myself to be, by any means, a data expert,

but we think about the challenges that even Research Triangle Institute has had in trying to interpret the data that's been collected. It, just, is an enormous challenge. And I think, Kim, would it be accurate to say this time around we have close to half a million data points? I know with the 2006 survey...

MR. BRACE:

A lot.

MS. LYNN-DYSON:

Mr. Brace says we have a lot of data points. That's a very precise number. In 2006 we had over 350,000 data points. And I think that it would be a fair estimation to say we're, probably, at least half a million now with the county level information that we collect. That is a lot of information.

DR. DAVIS:

And, just to follow-up a little bit on that point, there's also -- for the decentralized states, there's significant variation within states as to how they even name certain -- even President has a -- so part of the programming that had to be done within states included, sort of, the notion of sort of "fuzzy logic." If it sounded like this and that, then that was President. And the grants did help the states to begin the idea of standardizing within states, too.

DR. SIMONS:

I mean, this is the kind of problem we run into all the time when, for example, we try to use information from one database to verify voter registration and the databases are different, the names are input differently, and so on. So, I know it's a standard problem.

SECRETARY NELSON:

Chris Nelson, if I could just, kind of, echo that. Within a given state, and I'll use South Dakota as an example, it depends on which data we're looking for. We have a vast differential in how we can collect it. When I look at the core data points, five of those six we can report and are reporting on Election Night, live, precinct by precinct. Some of the non-core data, I mean, we have to really scrape to even find it. And so, it really depends on which data element we're looking for how easy it is for us to put together.

CHAIR THOMAS:

This is Chris Thomas. You know, I concur with that. This whole thing is a real challenge, and I'm hoping to see come out of this study are some very good best practices for decentralized states, such as Michigan. And some of the Wisconsin data may be helpful to us on how to gather this.

And, you know, we've been frustrated with this survey since it began and our frustration is twofold. One is internal to the state, in terms of trying to get everybody to participate, ideally, though we're 1,500 jurisdictions. And, you know, at the end of the day there's always a couple who don't want to answer all the questions.

The other thing, internally, we want to do, and I think many of the states have done this, is to program as much of this data into our statewide voter registration systems, Election Night return systems, so that we are not out surveying people after the election, and asking them to go back and reconstruct because that data, I will tell you, is, probably, close to useless. So, that is why we continue to push, and I know Mr. Wilkey indicated that you're pretty much freezing the frame, or that's where you're headed for the

Election Day survey, because the programming needs to be done right now. I mean, much of that data is collected over a two-year period. So, we would hope to see no real additions. If you want to ask us whether we have any reports to give you, that's fine, but beyond that we would hope that this instrument would remain, if not unchanged, then reduced, particularly, in the UOCAVA area. The slicing and dicing is an abstract construct that most of my election officials do not understand on all the variations of these different categories. Again, I just don't think you're getting good data out of that because they don't get the definitions. They're too fine.

And the other thing I would urge you to do, as the Commission, not so much as a study, is to go back and find out, are we collecting useless data? I mean, just because some Poli-Sci Prof said during the meetings that, "Gees, it would be great to have this," they will take whatever is great to have. Has anybody used it? Is it useful information? Because, it's a lot of money and a lot of sweat going into the construction of our answers. We think it's something that's, absolutely essential, is continuing the Election Day data and we're getting better at it. And I was encouraged with this, even though it was kind of slap-dash move by Congress to expect people to spend, you know, \$2 million in five months to really put something together. I'm hoping to see some really good best practices come out that will help us. And we'll again encourage the Commission to, if possible, minimize the report, and if not possible to at least leave it alone, so you can start to build your baseline without questions changing each year, and some of the variations within the questions is going to make that comparison

very hard to make because the baseline is not there without somebody extrapolating or footnoting the heck out of it, you know. Who reads footnotes? Poli-Sci people maybe. So that's my comment.

And, I will say working with the Commission and your vendors on this was excellent this year. They have a great group of people, very patient, understanding people which was greatly appreciated. They did a super job.

Mr. Lewis?

MR. LEWIS:

I think all of us are interested, quite frankly, in the EAC's ability, over the long haul, to gather data that is consistent that we can -- that wonderful research desire to keep changing either the way we ask the question or the nuances of the question, also, then become the very thing that means you can't compare the data. And so, most of us who are in elections, I think, would agree, at this point, we don't have enough data, most of the time, to truly be able to say, "We're doing okay compared to the way others do it," you know. And the beauty of what the EAC is doing, in this regard, is that it does give us a baseline, it does give us a benchmark, it does lead to the ability, over a long period of time, to do self-evaluation.

Unfortunately, one of the other aspects of it is that researchers, particularly at universities, tend to draw data from numbers and then extrapolate conclusions that the numbers don't, necessarily, match up to in the real world of election administration. And so, this is one of the dangers that we always worry about, is, you know, you sometimes read these reports and these analyses

and you say, "My God, what election did they attend? What one did they observe?"

MS. LYNN-DYSON:

Mr. Lewis, do you have an example of that?

MR. LEWIS:

I don't with me now, but I will indeed provide you with some examples, so that you have that, because it's one of those where we see, instead of truly understanding how administration works, it is analysis by numbers. And that's okay up to a point. It really is okay up to a point. But we're hoping that you all do lock this down, and get this to where it is stable and steady and consistent, and then, if you want to ask a set of varying questions, that those be limited and changed, maybe only slightly, from time to time, so that the baseline is the baseline, and stays the baseline and can be used for comparative data analysis.

MR. CUNNINGHAM:

Just by way of explanation from the local level, I'm pretty data wary to be honest with you. When I left my office Friday, I had two surveys on my desk from universities around the country, and a six page public information request in a lawsuit. There are days where I feel like I'm a research assistant. And the data that you're collecting, quite frankly, while it, I think is useful it's the difference between the data collected from a U-2 spy plane at 40,000 feet, versus data on the ground. For instance, how many provisionals were counted in a precinct, I'm not interested in. That's old news. What I need to find out at my level is, why? How did that happen? So, you know, I'm actually dealing with a little more finite

information trying to figure out than -- so again, I'm not complaining. I'm just telling you that local -- in addition to the EAC, at the local level, we are constantly receiving requests for data that take tremendous amounts of time for myself and my staff to comply with. So, by the time we get around to, you know, December we're tired of it. We're weary. And I think that's probably got some effect on -- we reply to the EAC, because it's the EAC. For what that's worth.

MS. LYNN-DYSON:

I think that a number of you have heard me say over the years that my hope has always been for the Election Day survey, that it would become the gold standard of election data information, and that it would become an instrument and information that is not unlike the census. And that, perhaps, a benefit to this being eventually viewed as the census of election data information is that you would have -- you at the local level would have fewer queries from academia, from your legislatures, from advocate groups and that you could very easily point to the EAC's Election Day survey, "Start there first and look at that information, you know, Mr. or Ms. Stakeholder."

CHAIR THOMAS:

Sarah Johnson.

MS. JOHNSON:

A couple of points, I mean, I guess in Kentucky, we're different because we're Kentucky. But we're very centralized, so we -- and for the various reasons, we don't have 120 counties -- yes we have 120. We don't have county "A" interpreting the question one way, county "B" interpreting the question one way. 90

percent of the data is coded into our voter registration database. So, it's just me. I'm the one that hand enters everything, interprets the questions. So, if it's wrong for Kentucky, it's wrong in 120 categories, because I'm the one that read the question. So, we're kind of doing everything. It's a very top down approach.

So, I do have a question for you -- and I talked with Karen about this, and I just would request some research into this both really at the EAC level, probably more so, than your level -- and that's on page 41 of your draft report where you've got it's, "Table 4. Percentage of core election data reported by all states." And you have Kentucky listed at 2006 at 15 percent of the data reported and 2008 at 100 percent. And being that I'm the one that actually does all of those -- and we didn't change one thing, other than the tool, to enter the data for the EAC change, it was much easier this time -- but the data elements that were available in 2006 are the same data elements that I entered in 2008. And on those core questions -- and I have the documents, you know, to back that up and I've talked with Kim Brace -- and all of our fields were filled in. So, I just question whether this 15 percent in 2006 is really accurate for Kentucky, which then leads me to question some of these other 2006 figures.

MS. LYNN-DYSON:

Ms. Johnson, I do think it's appropriate for ICF to respond to that question, since this table is one that they compiled.

MS. JOHNSON:

Okay, thank you.

MS. LYNN-DYSON:

So, Dr. Davis?

MS. JOHNSON:

Yes, if you -- and I'm happy if you want to call or email me, to kind of talk to me about that because those figures are going to be taken by Congress and others, and they're going to be "golden." And if they're not accurate -- I realize you want accurate figures, so I would not like to have -- because the problem -- the issue is if Kentucky can report 15 percent in '06, and then we do 100 percent and I haven't changed a thing, it's kind of interesting I didn't get \$2 million to try to do something. So, send me \$2 million.

DR. DAVIS:

Well, I can tell you the 2006 data comes from the EAC Election Day survey database. I'm having the person who did those two tables reassess the tables to make sure they're accurate.

MS. JOHNSON:

Right. And, you know, it doesn't really -- if my base level is - - I don't care if it's the EAC's issue or your researcher's issue, somebody needs to look into that. You all can figure out which one is going to do it and take ownership for it, but it needs to be fixed. And for other states, you might want to look at it, too.

And then, I also wanted to talk about, I have no problem with doing the Election Day Data Grant. I agree with everything that's been said about the timing. And we all -- like Keith mentioned, it all takes a very long time to enter this data into it. And I'll give you some figures just on our figures. In 2006, and part of this reason was because the web based reporting figure was horrid to use, it took 240 hours to get the data and to enter it. And in 2008, it took

us 120 hours to do that. And that's just me, on a state level, running database queries and doing the math. So NASED, the National Association of State Election Directors, we passed a resolution at our February meeting asking the EAC to freeze the Election Day data survey questions, the data points, to freeze those going into 2010. And we did a survey of our membership to ask, "How much time did it take you all to do the 2008 data survey?" And remember, there were two components of that. Before it was just the data, you entered the data. The other component this year, which was new, which was mentioned yesterday, was your election law. I can't remember the exact...

MS. LYNN-DYSON:

Statutory overview.

MS. JOHNSON:

Thank you. It was the statutory overview component that was also built into this. So, I mean, I had no issues with completing it, but it is time consuming. So, I don't want -- there are some people out there that say, "We just don't want to do the data." We do. It's just, I want everybody, you know, to recognize from an election official's perspective on the state and local and municipal level, it does take a lot of time. And I like looking at the data, because I'm kind of a data person, and it helped us redesign our absentee envelop. So, I mean, we saw some issues in return. So, I mean, it is extremely helpful for researchers and for states.

CHAIR THOMAS:

Neal Kelley, please.

MR. KELLEY:

Thank you. First, as a member of the Committee I want to thank Terri and Commissioner Hillman. You kept us on point and on track, and I appreciate that. And Karen your good work was fantastic.

But, I have a couple of quick questions. One of the things that I did not see in the final report, and forgive me if it's there, is the cost breakdown, what the states did with that \$2 million. Because, I think, what would be helpful to know is, was the majority of that training? How did they use those funds? In Orange County in 2005, I made it a priority to start changing the way that we collect data and report data. And to my surprise, I found out that many of my colleagues just weren't doing that in California. And so, we're doing that without those funds, and had that data available because, like Mr. Cunningham, I got a little tired of always responding to these requests, and it made it much easier when we had this data in a way that we could report it out much simpler. So, was the cost a part of this analysis how to use the funds?

DR. DAVIS:

We can provide that data. Our question was, did your cost distribution and your application, were there differences? And would you allocate the funds in a similar fashion, or not now that you've mostly completed your program? So, we didn't do -- it was more of a qualitative, would you have as much training? If not, how much training? But we can -- those figures are in the applications. We did not collect -- I don't know how they invoice for the grants or how that works, so we weren't really at that level.

MS. LYNN-DYSON:

I'll take your question in just a moment, Mr. Dickson. Mr. Kelley, the way we -- as Dr. Davis indicated, the way we set up the evaluation, we did a qualitative analysis of, you know, in essence, did the \$2 million make a difference? And if so, in what general categories did it make a difference? And, again, if you were to do it again, how would you apportion that \$2 million? In terms of a very precise cost benefit analysis, if you will, of funds being allocated in a particular fashion, no, that was not done. It actually is something that could be done relatively simply. It's something my staff could do, because we do have, obviously, all of the invoices, all the line items. And we could perform that kind of analysis. But the request of the contractor was merely to do it in a qualitative fashion.

MR. KELLEY:

I see, thank you. You noted that from 2006 to 2008 there were several states that had significant improvements without that funding. So, maybe I'd be curious to hear from Secretary Cortés, what Pennsylvania did in terms of that.

MS. LYNN-DYSON:

I'll get to you in a moment. Mr. Dickson?

MR. DICKSON:

Deal with that question and then you can come back to me.

MS. LYNN-DYSON:

Okay.

SECRETARY CORTES:

Pedro Cortés, responding to the question from Mr. Kelley. With regards to speaking for Pennsylvania, we had a significant investment of over \$3 million that Pennsylvania was putting into

upgrading its data collection system, which is part of our overall statewide uniform registry of electorate or statewide database required by HAVA. So, we had some money already allocated for that. And the \$2 million that we received, as part of the grant, was used to augment the total amount that we had, so that we can build additional improvements and enhancements into our database, which were not there before, and also to cover some of the expenses of complying with the grant requirements regarding staff and regarding some of the other related costs. So, I can tell you that, you know, again, speaking for Pennsylvania, the money became useful in allowing us to further enhance, and to, in fact, just push us to expedite, a little bit, the direction that we were already planning to do, much like the case of Orange County in California, where we already had taken it upon ourselves to improve the data collection, because we're finding ourselves, as many of our colleagues, overwhelmed with the request for information, including the Election Day survey. Being the state agency, our role is mostly to push the local election directors of 67 counties to get that information, and it becomes very difficult, because, on one hand, we want to comply with the deadlines and the requirements for information that we understand, not only the EAC, but others want to have. At the same time, we are mindful that the counties are under a great deal of stress, to not only collect this information, but also to run elections and do everything else. That's how we approached the use of the dollars.

MS. LYNN-DYSON:

Mr. Dickson?

MR. DICKSON:

Jim Dickson. I just wanted to echo Mr. Kelley on providing the data on what this costs. Often state and local election officials have a difficult time dealing with their local funder, whether it's the state legislature, the Governor or city council, county council. And the more detail that they have, particularly on costs that are somewhat imposed upon them, will help make, in some cases, that conversation about local and state budgets go a lot easier, or at least a little easier.

MS. LYNN-DYSON:

Absolutely, duly noted. I think that we will, internally, be able to do some work on that.

No other questions, I will let Dr. Davis finish and that's it.

CHAIR THOMAS:

At this point, I'd like to acknowledge and welcome Wendy Noren. Good to see you here. And also, we have some members of the Executive Board of the Standards Board here, Peggy Nighswonger. Please stand. She's also president of NASED. Russ Ragsdale and Donald Palmer. I think those are the three that I see here. Thank you for joining us. Leslye, are you part of...

MS. WINSLOW:

Yes.

CHAIR THOMAS:

Yes, you're part of the Executive Board. Welcome. We're glad to have you here. I know we sent a committee on down to your meetings in Orlando, I believe, and received good information.

I'll turn this back to Terri.

MS. HEGARTY:

Okay, thank you. First of all, Secretary Cortés do you have anything else you want to add, any more comments on your experiences with this grant?

SECRETARY CORTES:

Thank you, Pedro Cortés. And I want to add a hearty thank you to you, Terri, for your leadership in leading the discussions.

Again, I believe that collecting information and data related to Election Day activities is important. And, I think that I echo the sentiment of pretty much every election director, it's how we collect that data and the expectations of uniformity. I can tell you that, from my standpoint, when we applied for the grant in Pennsylvania, and were delighted to receive the approval that we had been selected, part of my thinking was that, perhaps, with our model in Pennsylvania that is being improved, that we could have a system that could be viewed as best practices, and a model that could be adopted perhaps by other jurisdictions that did not have the adequate tools to collect the data. A big change for us -- and Dr. Simons alluded to this, I guess, or a response to Dr. Simons was about the format in which the information is collected, or at least the way the database is used. And, I believe, there was an answer with regards to Excel being the platform that is used for the technology to collect the data or the statewide database that we have, voter registration database. And, in Pennsylvania, in fact, I spoke of \$3 million that has been allocated to improve our data collection in our state database, and a good amount of that money is being used towards rehosting our technology from back in 2002,

that was built on a platform of Excel, which we have now learned is outdated, and now doesn't have the capacity to allow us to, not only, collect the data, but do everything else that we're supposed to do with Election Day activities and moving that into a .NET platform. And that is what is taking a great deal of our time and our money. Receiving this grant, sort of, pushed us even -- pushed us further in the direction of making this happen sooner than later, but at the same time we were under a great deal of pressure to make sure we complied with the requirements of that grant, while at the same time moving along our progress in developing the database for Election Day surveys and other data collection.

But overall a good experience. I'm glad we had the opportunity. I'm thankful to, also, Dr. Davis and her team for allowing us to participate, and to give me, as one of the five grantees, the opportunity to sit on the Committee and bring, perhaps, a different perspective than everybody else that was at the table. A good experience, and we look forward to more progress to come out of this grant.

Thank you.

MS. HEGARTY:

Wonderful. Thank you, Terri Hegarty again. So, thank you very much. If you didn't get a chance to read the full 76-page report, I think that Ms. Davis, you did a fine job of summarizing it. Thank you so much.

We did receive the first draft, made some cosmetic formatting changes to it. And there was one rather significant change, but that had already been incorporated. So, what you

have in your book is the second draft. And after reviewing that, our Committee does recommend that the EAC Board of Advisors concur with the draft Election Data Collection Evaluation Report. So, I would, at this time, make that motion to concur with the submission of that report.

SECRETARY NELSON:

I'll second, Chris Nelson, and then a question. Given Sarah's known defect in the report, I'm hesitant to adopt it as is. I mean, you know, I'm good with the report, but I'm concerned about that. And I don't know how we can resolve that today.

MS. HEGARTY:

And that's why I was going to put the motion on the table, and then say, with looking into that for changes. But, yes, thank you for mentioning that.

CHAIR THOMAS:

Commissioner?

COMMISSIONER HILLMAN:

I was just going to say that it would be appropriate to note in the motion whatever points in the report need to be looked at and re-evaluated, and we'll make certain that's done.

MR. LEWIS:

Mr. Chairman, Secretary Cortés told us in a little private sidebar over here that the only important data in the report at all was to show that Pennsylvania was 99 percent.

CHAIR THOMAS:

So, that's one number we won't be adjusting.

[Laughter]

MS. LAMONE:

Chris?

CHAIR THOMAS:

Linda, yes.

MS. LAMONE:

Linda Lamone. I would like to just jump on the same bandwagon with Chris and Sarah. We have the same issue with the 2006.

MS. LYNN-DYSON:

Mr. Chairman, I think that's one of the real beauties of this, kind of, geographic representation at the table. So, by all means, take a look at the table, and your states, and the depiction of the data for your state. Accepting the great State of Pennsylvania, Commonwealth of Pennsylvania, I guess, we're good. 54 more to look at. Absolutely, Commissioner Hillman, we will look into this and make the necessary adjustments.

CHAIR THOMAS:

Terri Hegarty is going to re-read the motion that's on the floor, so that we can get it captured here. Go ahead.

MS. HEGARTY:

Okay, now I make an amended motion that the Special Committee recommends that the EAC Board of Advisors concur with the draft Election Data Collection Grant Program Evaluation Report, with further evaluation contained on page 41, and any necessary amendments to be made. Does that sound good?

CHAIR THOMAS:

Discussion? Secretary.

SECRETARY CORTES:

Pedro Cortés. If I may, Mr. Chairman, we have heard from both Kentucky and Maryland with regards to, you know, concerns that the data reflected for 2006 is not accurate. That's good to know, but we know that not all of the 55 jurisdictions are at the table and, therefore, I recommend that all jurisdictions be made aware that there's going to be an opportunity to review the statistics here, and perhaps, allow those states to come back promptly and say, "I would like for you to look at my data again." Or, in the alternative, have the reviewing team go back and look again at the data for all 55 jurisdictions, so that we don't hear, after the motion is adopted with the amendments, that somebody says, "I did not have the opportunity to comment."

CHAIR THOMAS:

As I understand it, the amendment is a friendly amendment, it's been accepted by the Chair of the Committee. And, as I understand, the Commission will certainly make sure the states are aware of this, and will give states an opportunity to comment or correct any numbers that are in error. Does that satisfy or...

SECRETARY CORTES:

It does, Mr. Chairman. Perhaps, for further clarification, it could be stated in the record that that contact will be made with the chief election official of each of the 55 jurisdictions, whoever that person happens to be, Secretary of State or another person.

CHAIR THOMAS:

I see Commission people nodding their heads that they'll -- yes? Okay.

MS. LYNN-DYSON:

I'm sorry, I'm making a note. Actually, Mr. Chairman, I was nodding because I'm thinking through the operational obstacles to this, because it is 2006 data and, as we all know, there are so many of those folks who may or may not still hold that office. But be that as it may, we will go through the due diligence and vet the numbers as necessary.

CHAIR THOMAS:

Yes, our memories are so good. Okay, further discussion on the amendment and the motion? Hearing none, all in favor? Opposed?

[The motion carried unanimously.]

CHAIR THOMAS:

Thank you. And I'd like to thank the Committee as well. It spent several hours working at this. And Diana, thank you for participating. And Karen, thank you very much. I think we're making great progress on this Election Day survey.

Okay, we're a little ahead of schedule, so we can get you out of here by 8 o'clock tonight. Let's take a break, if we could take 15 minutes right now, and we'll see you back. It's just about 20 until 11.

[The Board recessed from 10:24 a.m. until 10:54 a.m.]

CHAIR THOMAS:

We're now going to do the lighter part of our business here. We're going to look at voting system standards. And there are people that live for voting system standards, let me tell you. And so, this is -- for the rest of you, this is an initiation process and definitely good work. We have Matt Masterson back with us and Lynn Rosenthal with us again. Thank you both for coming back. Matt, I know you had to, and Lynn did it on her own free will.

I'm going to ask Keith Cunningham, who is the Chair of the Voting System Standards Committee, again a Committee that has worked very hard over the past year, spent numerous hours on the phone dealing with both the risk assessment project that has a new name now, and whatever we're going to call this set of voting system guidelines. And so, I'm going to ask Keith to take the floor now and talk about that very issue, about what we're going to recommend that these be called, and I think it will facilitate our discussion. So, if this new regime of naming exists for only one day, that will be valuable, because we'll all understand what we are speaking to.

So, Keith.

MR. CUNNINGHAM:

Thank you, Chris. I'll begin by thanking Chris for appointing me the Chair of this Committee and this mind-numbing experience, I've had in the fun world of voting system standards.

COMMISSIONER DAVIDSON:

We've got to deal with them all the time.

MR. CUNNINGHAM:

I understand. Let me begin by suggesting that you make sure you have four documents in front of you for this next set of discussions. The first is a memorandum to the Board of Advisors from the Committee dated May 26, 2009. About halfway down the sheet you'll see "General Reference Recommendations." You should have that in front of you. The second is a document that was passed out, I believe, at the break. It is just a sheet of paper, one-side, a little on the second side that says, "Section Specific Recommendations – Submitted to the Board of Advisors from the Voting System Standards Committee." Those are accessibility topics. And then, in your materials you received, you received some condensed versions of the draft guidelines. You have a Volume I and a Volume II. And basically, what was done there was, you know, the contents of the -- are they in the book?

COMMISSIONER HILLMAN:

Okay, those were the materials that were emailed to the Board on May 26. So, if you do not have the May 26 memo, or the attached excerpts from the VVSG, there were two sets, Volume I and Volume II, just raise your hand and we'll get copies to you.

COMMISSIONER DAVIDSON:

And that 26 is in 13, tab 13.

MR. CUNNINGHAM:

Tab 13, what's in there.

COMMISSIONER HILLMAN:

Right, everything would have been behind tab 13, but the material was emailed to you. So -- this is what we referenced yesterday. So, it would be the May 26 memo and behind that

memo would have been excerpts from Volume I, and it would have addressed -- 4.1.2.11 would have been on the first page, and then, Volume II and it would have started with the excerpts from 2.1.1.1. And if you don't have that, we'll get the copies around. And then, in front of you, at break, so if you lost this it's in front of you somewhere, are the accessibility recommendations and the excerpts from the VVSG that support those sections.

MR. CUNNINGHAM:

I'd hate to think the Committee was working this hard and you guys weren't paying attention.

[Laughter]

COMMISSIONER HILLMAN:

Right. And also, to let you know, for those of you who may want to see the full marked up VVSG, that's what was sent to you on the disk. If you want to see that during the course of these discussions, just let us know. We have a couple of copies. But to let you know that the information will be posted up here on the screen as we are going through the recommendations. So, we'll try to give you as much paper as you need to get through this.

MR. CUNNINGHAM:

Actually, on behalf of the Committee, I want to thank the members of the Committee. Why don't you all raise your hands, all of you that on that Committee? Really, really yeoman's work on material that is just, as I said, mind numbing. Just, you know, you'd walk out of some of the sessions or the conference calls just scratching your head. But, I believe we have a very good and

thorough and thoughtful set of recommendations for the Board of Advisors today, and we'll discuss them.

I want to begin by looking at the May 26 memo, "General Reference Recommendations." And, I think before we even begin the discussion on the meat of this document, we need to have a little discussion on just what we're going to call all these things, because this has been terribly confusing, heretofore, trying to figure out the 1990, the 2002, the Next Iteration, the 2005. And I think there was a tremendous amount of concern expressed, that, by putting a year on the standards that some of this takes so long that, you know, if the current standards said 2005, they would, somehow, look to be four years old already. So, I think there was a general consensus that that's, probably, not the best way to name these, although it's worked so far. And the whole discussion of calling them "version," "Version 1," "Version 2," what have you, I think, received general consensus that that's probably the best way to go. But now, we're in a bit of a debate over whether or not the current version is going to be Version 1 or, as the Committee recommends, Version 3.1.

So, if you look at this document, it shows you that there were the 1990 standards, which the Committee suggested be Version 1. There were the 2002 standards, which the Committee suggests now become Version 2. The 2005 standards, which we believe should become Version 3. What we're working on today, the update, the amended 2005 standards, should be Version 3.1. And, the Next Iteration, which, I think, we all agreed was probably a great title for the next Star Wars sequel or something, you know,

“Star Wars, The Next Iteration,” would be -- or you know Star Trek, or whatever you’re into -- the Next Iteration would, actually, be Version 4.

So, at this point, I would like to engage in the discussion as to whether or not -- I guess John Wack is here from NIST, and you folks are the ones that made this Version 1, and Doug Lewis is here from The Election Center, and he had the motion in the Committee meeting to do the numbering the way we’ve proposed. So, I think it’s probably in our best interest to engage in that discussion, decide on what we’re going to call it, although I guess it doesn’t commit anybody to that does it?

COMMISSIONER HILLMAN:

It’s a recommendation.

CHAIR THOMAS:

It’s a recommendation.

MR. CUNNINGHAM:

Ours is a strong recommendation. Matt, go ahead.

MR. MASTERSON:

I was just going to explain why we have the versioning we have, right now, sitting here today. And then, if Mr. Lewis wants to explain the thought process behind the proposed versioning, I’m certainly open to listening to the recommendation.

MR. LEWIS:

Will you strongly listen?

MR. MASTERSON:

I will strongly listen. The 2005 VVSG, as it stands today, if you look at it on our web site, has Version 1.0 on it. It already is

labeled Version 1.0. The thought process behind that was, of course, that was the EAC's first promulgated set of standards and, therefore, becomes Version 1.0. And, in talking to NIST, and you can correct me if I'm wrong, it's fairly typical that when one organization takes up standards from another, they don't keep the versioning from the prior organization, but instead start their own versioning. And so, that is why the 2005 VVSG is 1.0. This revision to the 2005 VVSG, what is up on the screen as labeled 1.1, is labeled that way because it is a revision and, therefore, it is not its own version, but instead, a revision to an already existing version, which was 1.0. So, it becomes 1.1. Therefore, the Next Iteration, because it is a proposed total rewrite of the standard would become 2.0. The intent was not to ignore the previous existing standards, the intent was to recognize that the 2005 VVSG was the first set of standards that the EAC promulgated, and therefore is 1.0. And the FEC promulgated 1990 and 2002. So, that was the thought process behind it.

COMMISSIONER DAVIDSON:

Can I say something?

CHAIR THOMAS:

Yes, you may. Donetta Davidson.

COMMISSIONER DAVIDSON:

I think one of the other things that we considered back in 2005, with the 1. is that what the FEC was, you know, theirs was guidelines and, you know, the technical word "guidelines", and they were standards. So, they were even named different. And,

Congress did that. So, that was another reason why in 2005 we did the 1.

MR. CUNNINGHAM:

Doug Lewis, if you come up with a word more impressive than "promulgated," we might win this.

MR. LEWIS:

This is Doug Lewis. Golly, look, we're dancing all around over what we call these. The truth of the matter is there have been -- the Federal Government issued standards. Standards is what voting systems were tested to, as issued by the Federal Government, whether that was -- you know, this is sort of like B.C. and A.D., except that I think we're now at B.M. which is, "Because of me. I'm here now, you know, and so, therefore, we start numbering, because I'm here." That's sort of revisionist thinking, I think. The truth is every voting system that's ever been tested has been tested to federal standards. Those federal standards started in 1990. NASED -- actually, the old Bureau of Standards, which is what NIST is named now, I mean they're now named NIST, but they were the old Bureau of Standards, went to Congress trying to get Congress to fund testing back in 1990. That didn't happen. Because it didn't happen, but the Federal Government issued the Federal Election Commission standards, the 1990 standards, NASED on behalf of the states picked up the responsibility for administering that program to test to federal standards. In 2002, the Federal Election Commission reestablished, at NASED's request, to revise the standards, because, clearly, the 1990 standards were outdated and the Federal Government, once again,

issued a set of standards, the 2002 standards. When this agency was created, it received its responsibility by shifting the FEC responsibilities for voting system standards testing and voting systems standards promulgation in this agency. And so, as a result of that, we are now on the third iteration of federal standards. That's where we are. That's reality. That's real world. We can start naming anything we want to if we're all going to take the attitude, "Time only starts when I get involved." But that's not the case. And we have standards, we have voting systems, by what even the EAC discussed yesterday, that are being tested to 2002. That's not to the EAC standards, you know. The EAC is awarding testing results to 2002 standards, but saying, "We have no responsibility for those because we didn't create them." And so, that doesn't make sense, quite frankly, long-term. It makes far more sense to say the Federal Government has had three sets of standards, and that's where we are now, and we may create a new set at some other point. That's why we think those that have been active in this for a very long time think this is the third generation of standards.

MR. CUNNINGHAM:

Right, well there's the two sides of the debate and -- this is Keith Cunningham, I'm sorry. Obviously, the reason for the debate is before we can really move -- or we feel before we can move into this document and move into this discussion, we have to, at least, agree on what things are called. So, gauging from the blank stares I am seeing around the room, there's very little, I won't say care, but there seems to be very little concern.

Mr. Dickson, please.

MR. DICKSON:

Jim Dickson. I very much strongly agree with Doug on this. "Those who do not know their history are doomed to repeat it." George Santayana said. It's important that the record shows that there was history. Even more important than that, election officials put huge amounts of hard work, unpaid work into the development of the '90 standards and the 2002 standards. That work needs to be honored and recognized. Yes, we all know there were problems with those standards. But, when NASED, from its own initiative said, "Something needs to be done and we're going to do it," that's the kind of attitude that makes this the great country it is. And to not recognize that by numbering these standards would be a real shame. So, I really urge everybody to adopt the Committee recommendation.

CHAIR THOMAS:

Thank you, Jim. Commissioner Davidson?

COMMISSIONER DAVIDSON:

We need to look into one item that our attorney brought up, and maybe, I should let him speak to it, but basically the 1990, the 2002 was published under that way, and if we have to republish them, that could be a great deal of money. So, would you speak to it Gavin, please?

DEPUTY GENERAL COUNSEL GILMOUR:

Certainly, Gavin Gilmour, and I'm not weighing in here one way or the other on this policy discussion. Just for purposes of information, these previous guidelines and the ones -- the 2005

Version 1, as it's presently named, issued by the EAC, were promulgated publicly through a process. And their title as recorded in the *Federal Register*, as recorded in a number of places, as officially noticed, would have to be changed, and we'd have to go back. And, all I'm noting is that there's a price tag associated with that. So, while we're having this discussion, and all valid points are being made, we should also consider the fact that it's shockingly more than you would think. Publication in the *Federal Register* is, actually, quite pricey. Of course, the EAC would have to do a determination of what degree that would have to be done. I mean, we're nowhere there. But, just so you're aware in making your recommendations and determinations, that those seeming minor, a name change, may have a taxpayer cost associated with it that could be in the hundreds of thousands of dollars for multiple changes, to go back. Now going forward, of course, that would not be the case. But, there could be significant costs associated with that. But, again, I just want you to be aware, as one piece of information in the discussion.

MR. CUNNINGHAM:

Sarah?

MS. JOHNSON:

Thank you, that is interesting information. And I do know, obviously, in HAVA, it said that the EAC assumes the responsibilities of what the FEC, OEA, Office of whatever that term was, sorry, but it says you assume those duties. And you're already assuming those duties.

Secondly. So, you know, you are what was the FEC Office of whatever that title is.

COMMISSIONER HILLMAN:

Election Administration.

MS. JOHNSON:

Thank you. It's driving me nuts, and you all, too, because you've got to listen to me. So, whatever, you're already that.

So, secondly, you know, while I understand it may cost you hundreds of thousands of dollars, trust me we got to publish the state plans. It's, you know, 500 bucks to publish one of those notices, so on our level, that's equal to 100,000 of what you guys do.

But the stone cold reality is we're all, as we said yesterday, and we will say again today, we are all using systems that were certified to 2002 VSS. And, you know, you all are getting the ball rolling on your EAC 2002, but the reality is we're all using these systems. So, change the title to what the Committee recommends and move on.

MR. CUNNINGHAM:

Mr. Thomas.

CHAIR THOMAS:

Gavin, you know, I don't think you just gave us a legal opinion. What I heard were a lot of "mays." And so, I would, you know, just respectfully request that, you know, let's not scare everybody by some potentials that, perhaps, the full legal analysis has not been completed yet, and let's move forward.

MR. CUNNINGHAM:

Wendy.

MS. NOREN:

You know, there are times when we all think that everybody knows what version is what. And I'll be honest, you know, being a bottom feeder, down at the county level, most of my counterparts have no clue, you know. And, they get these surveys. You want to see a mess on your EAC -- we just had the data collection thing. You send out some of these jurisdictions, "What version do you have?" Well, you know, suddenly, you start having some of them 1990. By the way, people still have 1990 systems. A lot of smaller jurisdictions do. Then you have 2002, and then suddenly, you have Version 1 and stuff like that. You need a uniform system. If we've got voting out there, we need a uniform system of identifying them, because you're going to be asking all these jurisdictions, "What version do you have?" And so, you've got to get some kind of system going that everybody knows and everybody understands that's simple. And if you're going to have part of them be by year, and part of them be by version, it's -- when you ask a version, somebody is going to say, "Well, I've got the 1990. What version is that?" Well, they don't know it's not a Version 1 or 2 or 3. So, you really need to either do all of them or none of them, as long as they're all out there in the field, I think.

MR. CUNNINGHAM:

Further discussion? I guess that for the non-system users and so forth, this may seem just like an academic exercise, but I think it is important for communication purposes that we all

understand. I mean, that was discussed in the data thing that we all need to be able to call something the same animal.

So, if there is no discussion, I would make the motion, at this point, that this portion of the Committee's recommendation be adopted as the way that we're going to name these -- I'm sorry, yes, there is a correction. The update to the 2005 VVSG would be Version 3.1, not 3.2. So, I would move that with that amendment that these determinations be approved.

SECRETARY NELSON:

Second.

MR. CUNNINGHAM:

Further discussion?

CHAIR THOMAS:

Did you say who seconded it?

MR. CUNNINGHAM:

Right, Chris Nelson seconded it. Those in favor signify by saying -- well, I guess that's your job, isn't it, not mine.

CHAIR THOMAS:

Go ahead.

MR. CUNNINGHAM:

Okay, thanks. Those in favor signify by saying aye. Those opposed?

[The motion carried unanimously.]

COMMISSIONER HILLMAN:

Did we hear a nay?

MR. CUNNINGHAM:

Was there a nay?

CHAIR THOMAS:

Matt?

MR. MASTERSON:

I'm sorry, I can't help myself.

MR. CUNNINGHAM:

However we are, we are well aware it's a recommendation, and since you've already put in your numbers on everything -- we understand where it's probably going to get filed, but that's all right.

All right, with that, let me turn to Matt and John. Again, if you will -- oh, before we proceed, I just want to mention to you there are more changes than what you have on this sheet. What that should indicate to you is that these are changes that we had comments on. I'm sorry.

MR. BUSH:

I have a question. I'm a little confused, and that's not unusual. So, what's the name going to be? Is it going to be the 1990 VSS Version 1? Or is it going to be Version 1? I'm unclear what this designation is going to be.

MR. CUNNINGHAM:

Well in that, you know, these are recommendations from this body...

MR. BUSH:

Right.

MR. CUNNINGHAM:

...and in that the EAC has already published these documents for use here under their numbering system, I would

suspect they're going to disregard the recommendation, I mean, to be quite honest with you.

MR. LEWIS:

Mr. Chairman, my guess is is what they would be known as the Federal Voting System Standards Version 1, formerly known as 1990 standards. Version 2 is the Federal Voting System Standards, formerly known as 2002, et cetera, so that we then begin to refer to them simply after that as Version 1, Version 2, Version 3. And I would hope that the EAC would, at least, listen to its Board of Advisors in this regard.

MR. CUNNINGHAM:

Thank you. Mr. Lewis is much more diplomatic than I am about these things. He keeps working on me. So, yes, I don't know the answer to that. I mean, we've made our recommendation. I guess time will tell.

Commissioner Hillman?

COMMISSIONER HILLMAN:

Just speaking for myself, but also as the DFO for the Board of Advisors, what I hear the recommendation is that the name of the document should include the version number, whether it's VSS 1990 or, you know, whether it's Version 1, and then -- or whether, somehow, that the Version 1 would be incorporated in the title, Version 2 would be incorporated in the title, and so on and so forth; that that's the spirit of the recommendation.

MR. CUNNINGHAM:

Okay, so did that answer your question?

MR. BUSH:

Yes.

MR. CUNNINGHAM:

Very good. Just so you know, there are more issues that Matt and John are going to discuss, and...

COMMISSIONER HILLMAN:

Lynn.

MR. CUNNINGHAM:

Lynn.

COMMISSIONER HILLMAN:

Rosenthal.

MR. CUNNINGHAM:

There are more changes than what is in this document. The document reflects the changes that the Committee had other recommendations on, so there will be -- if this document does not reference the section that means the Committee reviewed it and accepted it as proposed. This document only reflects those changes that the Committee made.

So, with that, I'll end this and Matt you can go ahead.

MR. MASTERSON:

Thank you, Mr. Cunningham for your stream of consciousness introduction.

Let me start -- I'm going to take speaker's digression, real quickly, because I think it's an important piece of information. I spoke with a member of Sequoia Voting Systems last night, because I had provided you all with an update on their progress in the testing and certification program. They are resuming testing without stopping. They had temporarily halted testing because of a

key personnel change. So, we haven't received a schedule yet from them, we're working with the lab on that, and we'll continue to move Sequoia along as the schedule dictates. So, I just wanted to provide that update, because I know there was concern for many about where Sequoia stood.

So, with that digression, I guess I'll start by saying, out of respect to Mr. Lewis and Mr. Cunningham, we'll use the vocab "in the proposal." Is that the instruction I'm hearing for this discussion? So, for instance, this document that we'll be looking at today, which is the revision to the 2005 VVSG, will be known in this discussion only as 3.1. We're taking it under advisement from there. So, I will refer to it as 3.1 for this purpose. So, I think it's important just to recap, so that we're all speaking the same vocab, even though we just had this discussion, the document we are looking at today, the draft VVSG Version 3.1, is a revision to the 2005 VVSG. The revisions were done using portions of the TGDC recommendations to the EAC that were submitted in August of 2007, and reviewed by the Standards Board and Board of Advisors in December of 2007. What was known as the Next Iteration is now known as VVSG 4.0. So, portions of VVSG 4.0 were used to revise the 2005 VVSG and create 3.1.

Are there any questions about that?

MR. LEWIS:

Crystal clear.

MR. MASTERSON:

Okay, it's the numbering. So, what we're talking about today is the revisions to the 2005 VVSG Version 3.1. That's what we're speaking about.

Mr. Dickson?

MR. DICKSON:

Jim Dickson. One other thing that I think is important for the record to show is that these recommendations will take time to translate into equipment that election officials are purchasing and voters are using. We don't know what that time is likely to be, but I think a pretty educated guess would be, you know, somewhere in the four or five years from now is when we would actually see equipment being used by voters to what will be adopted here. Everybody wishes, hopes it will be quicker, and it might be, but I think it's important that the public, and in particular, the media, understand that there are very good reasons why this takes time. We do not expect -- as a society we do not expect a pharmaceutical to go from the laboratory to the public in six months, or a year, or two years, and we should not, as a nation, be expecting that the systems on which we vote can be changed quickly. The first time I heard Doug Lewis say that election administration is not rocket science, it's harder than that, I thought that that was a vivid way, with some exaggeration, to make a point. But after, you know, 25 plus years of working with election officials, this is much harder than rocket science.

MR. MASTERSON:

Thank you, Mr. Dickson. And actually, what I'm going to do to start with, I think, will clarify or go a little further on a little of that

thought process. And, I will say that I disagree a little bit, but I'll get to that when I get to the motivations behind this, because the motivation to revise the 2005 was really driven to clarify the standards, so that the systems in process right now, or that are going to be in process in the next, you know, whenever this is adopted, can be tested in a more consistent nature. And so, a lot of these changes to the 2005 are really just clarifications, not significant changes to the standard. But I'll touch on that in just a second, actually, probably now.

Yes?

DR. SIMONS:

Matt, I just have a request. When you're going through the changes, could you please tell us what feedback on each of them you've received from the TGDC? I'd be interested in their opinions of these recommendations.

MR. MASTERSON:

Sure. Actually, I can speak to that now in order to say that the TGDC has not been formally consulted on this and I'll -- go ahead.

DR. SIMONS:

No, go ahead. I'm listening to you.

MR. MASTERSON:

The reason for that is because, and it's actually twofold, the first reason is because the recommendations offered by the TGDC to us were what was used to revise the 2005 VVSG. And so, we worked on the assumption that the TGDC agreed with itself when making these recommendations to us. And we saw only benefit in

taking their recommendations that could be implemented most quickly and using them to clarify the standards. We found many of the recommendations that the TGDC made to us, and heard a lot of feedback on the recommendations that the TGDC gave to us, that these were good, clear standards that would really help our testing now.

The other reason is the consultation and desire to use the TGDC to develop this 2005 VVSG would -- or revision Version 3.1 would take longer than we wanted. We wanted immediate results in our testing and certification program, as in this year. We wanted to get this out this year. And we found in working with NIST, and I think NIST can confirm this, having meetings with the TGDC working through the subcommittee process was a very effective way to develop the Next Iteration. It wasn't fast. And we wanted to improve our testing process, you know. We talked a lot yesterday about removing roadblocks. One of the great ways to remove a roadblock is to clarify the standard, so that we're not issuing interpretations, so that our labs are consistent in testing, and so that manufacturers can know what to expect going into the testing. And so, those were the two motivations on the TGDC.

I will say that the TGDC has been notified about these revisions, and the entire public, including the TGDC, we hope will comment and let us know if we're hitting the mark with what we want.

DR. SIMONS:

I mean, there are some really knowledgeable people on the TGDC, and they spent a huge amount of time developing the

VVSG, and they clearly know it very well. It just strikes me that it would have been appropriate to have sent it to them during this process, which has been going on now for months, and requested comment. I think there would have been enough time. So, I'm actually kind of surprised that that hasn't happened. I think that was a mistake...

MR. MASTERSON:

I appreciate that feedback.

DR. SIMONS:

...and an oversight. And I really wish you had done it.

MR. MASTERSON:

Thank you. We acknowledge the expertise on the TGDC, and certainly, that's why we went to their recommendations to use those to revise the 2005. We thought there was lots of good input in there and that's why we used those recommendations to do it.

DR. SIMONS:

Right, but it's not the same.

MR. MASTERSON:

Well, that sort of leads into why we're doing this, I guess. And I've touched on it a little bit, and so, I'll try to clarify and move along as quickly as I can, so we can actually get to the revisions.

This idea to revise the 2005 VVSG and clarify it came from two sources. One was our public comment period that we held on VVSG 4.0, the Next Iteration. We received many, many comments telling us many sections of this document are good, clear sections that would help in the testing process. They're more testable standards in a lot of areas. During our roundtable discussions that

we held, we held a series of seven roundtable discussions with various stakeholder groups about the TGDC recommendations, and, almost unanimously, throughout those stakeholder groups people agreed that there were good, clear testable requirements that might be useful now.

The second source of information was our testing and certification program. And, as I mentioned to Dr. Simons, we have found in our testing and certification program a need to interpret quite a few standards in the 2005 and 2002 due to ambiguity. And, sometimes those interpretations lead to delays in testing, because it sort of changes the rules of the game, at times, in the middle of the testing. And that's something we wanted to take a look at. In addition, we found both within and outside the lab that, at times, there was inconsistency in interpretation, where one lab was doing something slightly different. They were testing to the intent of the standard without question, but it was different. And that makes it hard for a product that's going through certification testing to know what to expect.

Part of that is driven by the desire to develop these test suites with NIST that's been talked about. In talking to NIST, they said to us what our labs were telling us, and that is this 2005 standard, at places, is really ambiguous and hard to develop test suites to. And we said, "Well, how can we better facilitate the development of those test suites to the 2005?" And we looked at clarifying the standard as the means to do that. And so, I'm happy to say that, as Lynn mentioned yesterday, the test suites will go out for public comment for these revisions in the 2005 in July, so that

we can hopefully piggyback the test suites, almost immediately, following the release of this version of the VVSG. And so, those were the -- I'm sorry.

DR. SIMONS:

No, go ahead. I just had one quick follow-up to the TGDC. When I first got these revisions, I actually sent it to a couple people I know on the TGDC, and they were shocked that they hadn't been told about them beforehand. When I asked my question, I was hoping that you had since consulted with them. I just think, even as a matter of proprietary, you know, just out of politeness it would have been to have sent it to them as an FYI, if nothing else, and apparently that -- they got it first from me. And I don't think that's...

COMMISSIONER HILLMAN:

Excuse me, one second, coming from Commissioner Hillman. Dr. Simons, I think it would be appropriate to direct those kinds of remarks to me, or perhaps Commissioner Davidson, as the DFO for the TGDC, and not to the EAC staff.

DR. SIMONS:

Okay, I apologize. I should have said, also, I'm Barbara Simons, I forget to say that, and I do apologize for directing the comments to the wrong person. I, basically, said what I had to say in any case. But I do know that a couple of people on the TGDC were not happy.

MR. MASTERSON:

Thank you. Okay, so I want to talk about sort of what the plan was for the revision and what we looked at to revise to, sort of,

help inform us on why we did this, the motivations behind it and the plan.

The idea, in looking at what sections of VVSG 4.0 to grab and put into the VVSG, was motivated by really four factors. One was we wanted to look at the material that would improve the testing of the voting systems, and fill the gaps in the 2005 VVSG. As I said, we wanted to develop test suites and help our labs better test to the 2005 VVSG. So, the material we looked at, we felt, does that; clarifies questions, clarifies questions that we've had from labs.

Next, the material that we looked at was material that we felt didn't need further research or follow-up. So, those areas which the Boards presented to us as needing further research were out of the question for incorporating into the 2005 VVSG, because there was more work to be done in a lot of those areas.

The next material we ruled out was stuff that would require significant, or even somewhat major, hardware changes. We really wanted to use this to improve testing, not really to affect the voting systems that much. That is not to say that there isn't some material in here that requires some software changes or software improvements. There is, particularly in the area of security, that John will walk through. There's a requirement for a software crypto module that would require software changes in several systems. But we felt that those software changes are much easier to handle than the hardware changes, as far as systems that would be submitted to us under this standard. So, the driving factor was not to bring about/develop systems in five or six years, but instead to

help our testing for systems submitted to us in the next year, two years, three years in that manner. So, that was a motivation.

And finally, as I mentioned, time was a determining factor. We wanted to take those sections which could be incorporated quickly enough that we could get this document done this year, and improve our testing and certification program as quickly as possible.

So, those were the factors that helped inform what sections to look at. And, in meetings with NIST and the EAC, we basically looked at every portion of the Next Iteration and said, "Does this meet our criteria or it doesn't? Can we incorporate this quickly or can't it? Does it require a hardware testing?" In addition, we met with the manufacturers and sort of walked through many of the sections and said, "Do you think this will require hardware changes? What kind of hardware changes would this require? Tell us if we're missing the target on what our goals are." And they provided a great deal of feedback to us in that realm to understand the systems that we could be looking at under the standard. So, that feedback was important.

And, we certainly will continue to look to all communities as we vet this document in the public comment process to make sure that we're not missing the mark on those goals. We really want to improve our testing. That really is the driving force here.

The added benefit that we've seen, and a great of example of this, is in the software workmanship section, or the coding section is that we hope that we're providing a little more flexibility to developers in developing improvements to their systems. And, the

example from the software workmanship section, basically, we were told by manufacturers of systems and by computer scientists in our roundtable that the coding section in the 2005 VVSG was outdated, and sort of, too stringent in the wrong areas, and focused on the wrong areas. And so, we took the software coding section from the Next Iteration and incorporated it in order to create flexibility, where systems as they're currently coded could still be tested and meet the 2005 standard as it stands now. But, if manufacturers wanted to code more correctly or have the flexibility for the coding, they could do so under this new revision. And so, we think that that can lead to improvements, because we heard from manufacturers telling us, "Listen, we've wanted to do some stuff with our code, but couldn't because your standards won't let us." And so, that's a good example where we've really tried to create some flexibility in the standard to allow developers to do and improve their systems the way that they want. So, that was the impetus behind this, and sort of, the targets for us.

I do want to talk just very briefly on the Next Iteration, and I think Dr. Simons' comments speak to this a little bit. Our plan is still to move forward with the Next Iteration. The Next Iteration, VVSG 4.0, is still being developed. It's still going to get done. The EAC as it worked on this Version 3.1 was resolving comments to the Next Iteration. So, we were doing work on VVSG 4.0 as we were working on VVSG 3.1. When this standard 3.1 finishes its review process, we will go back and continue our work and put out the EAC's version of VVSG 4.0 for public comment, keeping in mind that that version of the standard is for the future voting systems.

It's going to require a great deal of design and development, we hear between five to six years to develop to the new standard. It's going to require us to go back in and reaccredit our labs to that standard. It's going to require the labs to work on, and with the test suites that NIST has developed, to redo their processes. So, there's a great deal that goes into the Next Iteration, VVSG 4.0, and its rollout. The plan is never not to do it, it is in work now and we are going to continue to work on it. But we really wanted -- we saw a great opportunity here to improve our process immediately, and we wanted to do that. So, I think it's important to keep in mind that that standard is still being worked on, and it's still seen as the standard to be used for the future of voting systems. It's not being shelved in any way.

So, that's the end of my remarks about the motivation, sort of what we looked at, and why we looked at it. And I'm happy to answer questions about that before John will walk you through the document and talk about the specific revisions we looked at and why.

John?

MR. WACK:

Thank you. Well my name is John Wack and it's a pleasure...

COMMISSIONER HILLMAN:

Excuse me one second.

MR. WACK:

Yes.

COMMISSIONER HILLMAN:

Could you hold one second? Mr. Wack and Ms. Rosenthal, if it's possible that you could, sort of, spend the next ten or 15 minutes doing summary things rather than getting into specifics. We're close to the lunch break. Then we can pick up on the specific sections after lunch.

MR. WACK:

Okay.

COMMISSIONER HILLMAN:

Okay?

MR. WACK:

Not a problem.

COMMISSIONER HILLMAN:

Thanks.

MR. WACK:

Not a problem. Okay, it is a pleasure to be here and a pleasure to talk with you again.

And, I guess kind of starting with overview stuff, I have to tell you that I want to offer a different numbering scheme, because I really think the way you've done it doesn't make a lot of sense.

[Laughter]

MR. WACK:

And, I think for a millennium we've had a much better way of doing things. And, I think when the EAC came into existence it really was a new phase in everything, so I would think you would want to call the 1990 Version 1 B.C. And you would...

CHAIR THOMAS:

Or Version 2.

MR. WACK:

So, this revision would be Version 1.1 A.D. So, I hope you'll take that under advisement.

[Laughter]

MR. WACK:

Let's see, in providing an overview, just a couple of things in context here. I think everything Matt said about the intent of this document I'll agree with. Basically, it has -- well, let me just start with how we came about doing this. Essentially, the EAC came to NIST with this idea and originally said, you know, "We want material in there that will help improve the quality and efficiency of the testing." And so, we suggested other material, as well, that we thought was in the Next Iteration that was ready to go, that essentially didn't receive very many public review comments other than, you know, "The material looks good," and that would be material that, you know, could be implemented sooner rather than later and, therefore, it would be beneficial, wouldn't require too many changes in software or changes in hardware. And, we also suggested modifying one particular requirement, this external inter-phase requirement that does require a hardware change in the 2005 VVSG and we've been told is a stumbling block, a significant obstacle for vendors to actually build to the 2005. So, easing that could possibly make it easier for vendors to meet the Version 1.1 than perhaps Version 1.0. So I'll put that out.

So, anyway we put out a document and, you know, we, basically, said that we still very much support the idea of getting the Next Iteration out, and I'll go into a little bit in a second, but at the

same time there is a fair amount of material that we could put into this revision. And so, we were given some criteria. Essentially, we needed to do this within about a six-month timeframe. And, as Matt had said, hardware changes were going to defeat the whole reason for doing this, as well as extremely complex software changes. So, we needed to make this doable in other words. And, we also were given the constraint of not really changing the structure of the standard much, trying to use the existing structure. And, there are pros and cons there. We had a number of issues in that the Next Iteration is written in a different way. It's written to be more precise and it's written to have specific tests associated with it. And one of the reasons we support getting that out is that, you know, being a hobbyist wood worker, I think of the standard as really a workbench. You don't typically think of a workbench as a tool, like, you know, a power tool or a table saw, but it's a tool along with tests. It forms a tool, so you can do precise work. And a good standard with very precise language and very testable requirements, basically, is the foundation upon which a certification program is built. And the 2005 is not so good in that area. And the 1.1 -- I'm not sure, the 1.1 A.D. that we're talking about today improves upon that significantly, but ultimately we need to get to the Next Iteration.

What I'll do then for the next couple of minutes is just, at a high level, go over the different material that we put in and why. And I'll talk about some of the material that we suggested for this version that didn't make it in, primarily, because it would have caused too much change in the process.

One other comment, just kind of my own personal opinion, is that what we're all engaged in, is, in essence, transforming in a very big way the whole certification process. And it has to be at the same time as existing systems maintained and elections get carried out and budgets, you know, not improving in big ways. So, there are things that are going to be done that just, you know, aren't going to suit everybody, but the fact of the matter is this has to get done at the same time as, you know, work being done. So, I believe we're making progress. There are better ways to do it, I think, possibly, but it is what it is. We've gotten it out there, and I believe it's, you know, a pretty good stepping stone towards the next version.

Okay, with that at a very high level I'm going to talk about changes in three areas; core requirements, human factors, and then security. And if you don't know already, I mean, the reason we divide it up in that way, primarily, is because the TGDC divided itself up into three different subcommittees along the same lines.

So, starting with core requirements, and we, generally, kind of think of core requirements as everything but security and human factors, which actually ends up being quite a bit, primarily the big improvements there have to do with the accuracy-related requirements. And that's primarily a different way of testing accuracy that changes a couple of things. There are a number of other things to do with misfeed rates. And, in essence, there is a table in the standard now that defines essentially accuracy benchmarks for different types of equipment, and the testing now is to those benchmarks. And, I think, in some particular ways, the

way in which 2005 and 2002 did accuracy testing, or at least, specified accuracy testing, was not clear, and didn't really translate into a specific test method. I think the test labs ended up doing more or less what we're saying they should do now with Version 1.1. So, I think Version 1.1 kind of clarifies the accuracy testing and adds some additional things to it.

One other change with this version in accuracy is that, essentially, accuracy gets assessed during the whole testing campaign, whereas, before it was during specific tests for accuracy. So, in other words, a variety of different errors can accumulate and at a certain point -- even if they're associated with you know whether a printer works properly -- at a certain point one can say, "Wait a minute, this system is just not accurate," even though it may have passed the individual accuracy tests.

Yes, Barbara?

DR. SIMONS:

So, John I was just wondering, and I actually looked at this awhile ago, but my memory isn't so great, so forgive me if I'm asking something completely obvious, has the meantime between failure been looked at? And is there a higher standard than the incredibly low one in HAVA? And does it look at the whole unit when it's being computed, and so on?

MR. WACK:

The meantime between failure was more in the area of reliability than accuracy. And meantime between failure has been looked at though at the same time because those two -- the way in which accuracy and reliability testing is somewhat intertwined, the

same tests were used to address both. But it has been looked at, even though we're only addressing accuracy. The way in which we're doing accuracy improves in that general area.

To get down -- I'd prefer not to get into it at this point, because I'd be getting into some pretty specific weeds, but I can address that later.

CHAIR THOMAS:

I think we will hold the questions for now until we get into the specifics after lunch, and let John kind of finish up here, so that we can break in just a few minutes.

MR. WACK:

Okay, software workmanship is another big area. And what I'm going to say there, simply, is that for many years apparently, vendors have been complaining about the coding requirements, the coding standards in the 2002 and in the 1990. So, this simply, you know, in essence says, "Vendors you are free to use good coding standards," and has various requirements for how to figure out what a good coding standard is. And other material, test plans, test reports, requirements for standardizing those, requirements have been clarified here and there in the TDP, and voting equipment user documentation. And then, one requirement that I know the subcommittee had some issues with for improving, was having to do with operational humidity testing. There was some talk, earlier, that the humidity might -- I think right now, I think we have 90 percent in there, and maybe that should be higher.

In human factors, the human factors' requirements in the 2005 were brand new. They, you know, they didn't exist before in

previous versions of the standard. So, what you have now is the material from the Next Iteration, which is largely a maintenance release of what was in 2005. So, there aren't very big changes at all in that material. We can go over that a little bit more later.

There are some poll worker usability related requirements. As a general aside, I will say that all of these standards, including the Next Iteration, suffer in a sense from a lack of usability requirements related to election officials and poll workers. The usability requirements tend to address usability from the standpoint of the voter, but I think in future versions of the standard, more attention given to the usability of records, audit records, things of that sort, from the standpoint, from the perspective of the election official would be good. And I think that would address a lot of the complaints with the standards.

Okay, in the security area, there's general a philosophy of, "Force people to document it, and just by doing that it will become more secure." So, there were a number of security documentation related requirements in the Next Iteration that have been reported to Version 1.1. And simply in a nutshell, they ask the vendor to document, more or less, their security architecture, and how this architecture addresses a variety of different threats common to voting.

Electronic records have been clarified somewhat, and this gets into the cryptography area. So, that's one of the biggest changes in the security area. The cryptography in the Next Iteration was changed significantly to require cryptographic modules. Basically, cryptographic modules are sub-routines,

blocks of code, that implement cryptographic algorithms and, you know, a variety of functions associated with them. And cryptography has to be done a very special way. You have to, basically, tell people how to do it correctly, and NIST has had a pretty successful program for a number of years that tests those cryptographic modules. So basically, the requirements say you have to use a module that's been tested and approved by NIST's program, but it had to be done in hardware. So, for this version we, essentially, took some of those requirements and said it's okay to do it in software. Software is not as secure, but it's used, you know, in a number of different applications and could be used in voting equipment as well. So, the outcome of that, essentially, is that electronic records have to be digitally signed. In other words, the voting system has to put a digital signature on its records, so that it can be verified later.

And then, this bleeds into another area where there's been a big change. And that is in 2005, there is a requirement that's a somewhat vague requirement, but vendors have come back and said that, you know, they believe they are going to be expected to take the more strict interpretation of that requirement, which would mean that there has to be some sort of a hardware change, some sort of an external port put on voting equipment, that in reality, allows you to have your voting system here up and running. And you could stick a different device up to that port, and that port could interrogate the voting equipment and report back to you, kind of as an independent party, "Here's the software that's running on that voting equipment," because, right now, with a DRE, it's very difficult

or impossible to really tell what software is actually running on it once it's loaded. You can't really audit that. And that's an important thing to do. So, putting a new port on these devices, of course, is expensive and probably is impractical, given funding constraints. So, this particular version says you don't have to do that. But it's still important to know what software is running on the voting system. So, using these cryptographic modules, essentially voting software will need to be digitally signed. A vendor likely will cryptographically sign their voting software, and then the voting equipment will not load the software unless those signatures validate. In other words, you know, some process will go through where it says, "Aha, I'm going to check the signature on this module, this patch. If it validates, I'll load it and then I'll run it." If any of you run your own Windows systems and you actually watch the update process, now you have to install some software that, essentially, validates patches to make sure that they actually came from Microsoft and that they're the correct patches. So, this is pretty much the same thing. And the idea is, okay, let's control the software that gets put on the voting equipment by digitally signing it, and then refusing to load it unless it's got a proper digital signature. Let's control that software in that way. We'll keep unwanted software out of the mix.

Anything else? Voter verified paper audit trail requirements have been updated a little bit, not huge changes there. And I'll go into that a little bit more later.

And then, the other thing we did was we took a look at the existing decisions on RFIs that are out there on the EAC's web site.

I don't think any of these were huge, huge changes. There is one related to operating system security that I can go into a little bit more that's kind of interesting.

But in general, that's about it. Are there any other quick questions, since I know I'm standing between you and lunch?

CHAIR THOMAS:

No quick questions. We'll hold all those for this afternoon. Otherwise it's just going to get lost between the lunch hour.

I have three things. One, Commissioner Hillman wants to make a couple of comments. Second, Jim Dickson is going to make an announcement concerning the Resolutions Committee. And third, Maisha, there she is, is going to tell us where the picture is going to be taken.

So, Commissioner.

COMMISSIONER HILLMAN:

Gracia Hillman here. It dawned on me, particularly for the members who are new to this Board, you heard referenced the TGDC. What is that? And what's the relationship between that Committee and this Board and the EAC? In addition to this Board of Advisors, HAVA requires two other advisory committees. One is called the Standards Board. It's comprised of 110 election officials, 50 at the state level and 50 at the local level. And the chief election officer for each state appoints the two people from that state to the Standards Board. And Commissioner Beach, our current Chair, is the Designated Federal Officer for the Standards Board. We have the Technical Guidelines Development Committee, which is required under Section 221 of HAVA. And HAVA prescribes the

make-up of that Committee, including, that the Director of NIST is the Chair of the Committee. And HAVA also requires that NIST provide technical support to the Committee, and that the Committee advises and makes recommendations to the Election Assistance Commission.

And, I thought I might ask Ms. Rosenthal to just take a minute to explain to you the type of support that NIST provides to the TGDC and the role that the Director of NIST plays. Now, I will tell you it's not inconsequential that since 2004 NIST has had three Directors in two interims or two Directors in three interims. And so, that change, that turnover in the Chair of the TGDC, you know, has an impact in terms of how the TGDC can get its work done.

But, Ms. Rosenthal.

MS. ROSENTHAL:

Thank you, Commissioner Hillman. Luckily the staff has remained pretty much constant over all that time and we've been able to advise our Directors as they've been changing.

As NIST staff, our voting team works very closely with our TGDC members. But, in particular, what our staff does is the research and the development of the requirements. We work with the members of the TGDC with discussing, overall, what kind of direction, and some of the areas that requirements are needed. And then, NIST typically goes back and our staff develops those requirements for the TGDC to review and to approve. Once all the requirements are put together into one of these VVSG documents, it is the Director of NIST that actually forwards it to the EAC. NIST handles the editing of the document, the structuring of the

document, the proofreading, et cetera. We, also, for the TGDC handle the web site with all information related to the TGDC, its meetings. Everything is transparent and open. And, we also handle the logistics for all of the TGDC meetings and its subcommittee meetings.

Thank you.

COMMISSIONER HILLMAN:

I will also mention that Commissioner Davidson is the Designated Federal Officer for the TGDC. And this Board has two members on that Committee, Helen Purcell, who has been serving, I think, since the Committee was formed, and Wendy Noren. Is that correct?

MS. LAMONE:

No, me.

MS. NOREN:

I think we have a vacancy.

COMMISSIONER HILLMAN:

I'm sorry. Linda, Linda Lamone. Sorry about that. Okay, Ms. Purcell.

MS. PURCELL:

Thank you, Commissioner. I have served on the TGDC since its inception in 2004, I believe, it was including, with the staff of NIST, bi-monthly conference calls, it seemed like sometimes, even weekly conference calls, which on the East Coast versus the West Coast was very early in the morning for me. But we did a tremendous amount of work, not only on Version 3, but also Version 4. And, I am terribly pleased that we are now looking to

incorporate some of the things that we worked on in Version 4 in the Next Iteration, into the current standards that we have in Version 3. So, I appreciate the work. And NIST has just been -- it's incredible to me what they have done and the body of the work that they have helped us produce and offer to the EAC.

COMMISSIONER HILLMAN:

And, as a bonus for the Board of Advisors, we have members of the Access Board who also serve on the Technical Guidelines Development Committee, Ron Gardner. And Mr. Jenkins, I know you're new, your appointment also to the TGDC. So...

COMMISSIONER DAVIDSON:

That hasn't happened officially yet.

COMMISSIONER HILLMAN:

Officially yet, but it will happen. The Access Board makes the recommendation about its two members.

Okay, thank you.

MR. DICKSON:

Jim Dickson. The Resolutions Committee has received one resolution. We're at the deadline. Is there anybody else who has a resolution? Seeing none, Secretary Nelson has submitted a resolution, and I'm wondering if Secretary Nelson, if you could just for a couple of minutes, as soon as we adjourn, come up and meet with the members of the Committee, who are Terri Hegarty, Helen Purcell and Rhine McLin. I just want us to get together and see if we should deal with this now, or whether we should pick a time before we reconvene to have a discussion about this.

SECRETARY NELSON:

Certainly, Jim, that will be fine.

CHAIR THOMAS:

Thank you, Jim. Maisha?

MS. LEEK:

We're taking the photo on the steps right outside of the building. So, we're ready for you.

CHAIR THOMAS:

Okay, so we should proceed there directly.

COMMISSIONER HILLMAN:

Before lunch.

CHAIR THOMAS:

Right now.

COMMISSIONER HILLMAN:

Now.

[The Board recessed from 12:08 p.m. until 12:54 p.m.]

CHAIR THOMAS:

All right, we have two distinguished gentlemen here today, who have volunteered to answer the call here to talk about the 2008 general election experience. And we're going to urge you to chime in with your questions and comments. And if need be, we can take this back also a little bit, if we have time this afternoon, to continue the discussion. But, we really didn't have anything on the agenda that spoke directly to reflections on 2008, how it went, where we might want to go. So, this is an opportunity for you all to

chime in after these two distinguished Secretaries of State have given you their presentations.

Have you two decided who's going first?

MR. MASTERSON:

Protocol, I would suggest, the president.

CHAIR THOMAS:

Protocol? So we'll go with the President of NASS, Secretary Cortés, Secretary of the Commonwealth of Pennsylvania. Thank you for being with us.

SECRETARY CORTES:

Thank you, Chairman Thomas. I greatly appreciate the opportunity to share some thoughts with you this afternoon and with the group about the elections in 2008. And I'm delighted to be joined here by my esteemed colleague, Indiana Secretary of State Todd Rokita, who is our Association's immediate past president. So, all the good things that I've learned in this capacity I learned from Todd, and the things that people don't like I learned those on my own.

[Laughter]

SECRETARY CORTES:

I also would like to acknowledge the other Secretaries that are part of the Board of Advisors and are here. Some of you may or may not know that Governor Gary Herbert is not only the Lieutenant Governor, now to be Governor, but in his capacity as Lieutenant Governor in Utah, he's also the Secretary of State, because there's no Secretary of State in Utah. But, he's one of our

colleagues, and we also have Secretaries Chris Nelson from South Dakota, and Mary Herrera from New Mexico.

I'm going to address my remarks mostly from the standpoint of what went right in the 2008 election. I'm a firm believer that there's always room for improvement. I'm a firm believer that you have to push yourself to excel in anything you do. I have come to learn and realize, in the business of elections, though, that the notion of a perfect election is unrealistic. Elections have so many moving parts. In the case of Pennsylvania we have, out of 12.4 million people in the state, we have 8.8 million that are registered. We have 67 counties with 50,000 pieces of voting machines. We have -- actually, we have 50,000 poll workers, 25,000 voting machines, 9,300 polling places, and there you have an interaction between machines and humans, and things that sometimes you don't have control over, including people getting sick on Election Day and everything else. And with that in mind, I am practical in my approach to my expectations of elections. I expect that we're going to do them right and with a great sense of pride, but also, I acknowledge that things don't always work the way you planned.

Before I proceed, I want to acknowledge, also, and thank the Election Assistance Commission, especially the Commissioners, the Chair Gineen Beach, as well as Vice-Chair Gracia Hillman, and Commissioner Donetta Davidson, who is a former Secretary of State from the great State of Colorado, and once a Secretary of State always a Secretary of State. I'm always happy to see my dear friend and former president of NASS, as well. And the entire staff of the EAC, everybody has done a terrific job, not only in

bringing us here today, but doing the day-to-day work of the Commission.

We have good news to report with regards to the election in 2008, the primaries, as well as the general election in November. And that, by the way, is understanding my caveat that having a perfect election is an impossibility, but you have to try hard to make sure that the elements that comprise an election are such that they aim to guarantee to the fullest extent possible, fair, accurate, accessible, secure and, in my humble hope, smooth elections. Meaning that the experience that the voters have is one that they don't have any unnecessary barriers, and that things are happening the way that most of us believe a good election ought to run. That doesn't speak to the winners and losers. It doesn't speak to the results. It speaks to the administration of elections, as such.

I'm going to tell you that there's two main ingredients to have a good election. There's two main elements that must be in place. First, you have to have a well-informed electorate. And second is you must have properly trained poll workers.

Speaking to the first, a well-informed electorate, what does that mean? A well-informed electorate means that the elector, or the voter, knows the requirements for registration and registers, that that voter is able to confirm his or her registration, that that voter knows where his or her polling place is located and the hours of operation, that that voter knows how to operate the voting equipment that is in that particular polling place. And, in the case of states that have first-time voter requirements, and we know they're requirements under HAVA, but there are, in some states, stricter

requirements for identification, that the voter know all of that. And also, it's important that the voter not only knows where his or her polling place is, but how to get there. Those to me are the tools that are necessary.

And, to speak of this, I'm going to begin my remarks a little bit, initially, an approach about -- talking about Pennsylvania because that's where I work, that's where I have the closest contact, and then, I'll tell you what is happening in other states, not only in terms of the element of having a well-informed electorate, but also properly trained poll workers.

Let me talk about the properly trained poll workers while I'm at it. A properly trained poll worker means a poll worker that knows how to properly start up and operate and close a polling place, not only the equipment, but the other requirements. It's someone who is familiar with the requirements of the Help America Vote Act, is knowledgeable of, not only, perhaps, ID requirements, but is also mindful of the right to a provisional ballot, the need for an emergency backup paper ballot, if there is an electronic voting system that is not operable. That's what I mean by that type of knowledge.

And the Secretaries of State have gone through, I want to say, great pains, but that's not perhaps the proper way to describe it, because this a pleasurable experience not a negative experience, we have gone through a great deal of effort to make it so, in terms of having that well-informed electorate and properly trained poll workers.

In Pennsylvania, what we have done to accomplish these goals of the well-informed electorate and the properly trained poll worker, starting over with the voter, at the heart of our education campaign has been a very robust public education initiative, which we call, "Ready.Set.Vote." And as part of this program we have built a voter-friendly web site called "VotesPA.com" that I'm very pleased to say, The Pew Center on the States did a rating of all the web sites in the country and ours rated number four. And so, there's room for improvement. And this online tool provides the assistance, that I alluded to, that you must have. You have to be able to confirm that a person is registered, if at all possible, allow for notification of the voter registration in case you have a party change or a change of address. They're able to do that on our site. We also need to be able to have -- "Okay, you've confirmed that you're registered." Now let's have a polling place locator, and with that built in some sort of driving directions to get you there. We also, online, post videos of all of our voting systems that takes you step-by-step how to use those voting systems. For first-time voters, you talk about first-time voter ID. You also talk about other rights, such as the provisional ballot. And all of this is done with an eye towards, again, that properly informed electorate. And in the case of Pennsylvania, as was the case in most of the states, because a good number have similar tools, we had what I would describe as a significant increase in the public awareness as to their rights and how to run a good election. Pennsylvania is the sixth most populous state in the nation, we were the fifth and were surpassed by Illinois just a couple of years ago, and we had a de minimis

amount of complaints that came to us; things we were able to discern directly, others that were reported by the media. And in Pennsylvania, I work very closely with the advocates for individuals with disabilities for all the various communities, and we have a Pennsylvania voters' coalition group with which I meet every year on a regular basis, and through that group I have access to their hotlines for issues that are reported, and we had very few issues, considering the magnitude of the election. So, in that regard, we had a very good experience.

As far as having the properly trained poll worker, most of the training is done at the county level, and we, as a state agency, engage very closely our local partners for those efforts. And in order to be able to provide tools to the counties, understanding and recognizing that the counties are limited in their budgets, and that we want to try to create some uniformity across county lines, we developed two videos that have been very well received by the elections community. They are, "An Election Officials Training Video" that shows how to operate elections from the opening of the polls until the closing of the polls, and reporting of the results.

And I should pause here because as part of this Advisory Board, as well as the Standards Board, more precisely, the Standards Board, we focus heavily -- we should focus heavily on the voting machines. The voting machines are an integral part of elections. That being said, I maintain very strongly, though, that as we talk about running good elections, people forget that the process of elections encompasses much more than just the voting machines. The voting machines are an important element/tool.

However, the administration of elections begins months before the election with the circulation of petitions and getting the ballots set up. Then, it also includes -- it will include then the Election Day activities and the election itself. But then, after that, you have the canvassing of the results, the reporting of the results and certification. So, it's long a process and sometimes this is lost in the discussion, because the emphasis is put on the machine, and people forget that there's so many other elements for which you have to have the proper safeguards to ensure that the election goes well. Because one way to look at it is that you can have the best, perfect voting machine in the world, but if you don't have the other elements in place you can make that election vulnerable to deficiencies.

The same thing on the other hand, the reality is that we don't have perfect voting machines. And that being the state of affairs, what do you do then to try to maximize the end goal of having an accurate, accessible, fair election? And you do that by putting in place the proper safeguards; the chain of custody of equipment, the security safeguards that will then allow you to have, in fact, a good election. And that's what most of the states, if not all the states, have done, quite successfully, over the last several years and we're still learning. So, again, I'm not professing that we had a perfect election, but I'm telling you that we had a very good election last year.

What is happening with my colleagues throughout the country? Let me give you a flavor to validate or put more substance into my comments that we're doing our part. Back in

September, just prior to the election, NASS, which, by the way, in case you don't know, is the National Association of Secretaries of State, NASS published a report that we presented to Congress called "Engaging the Energized Electorate. Engaging the Energized Electorate." It's on our web site at nass.org. And in this report we went onto highlight specific actions/steps that states were undertaking to lead to the goal of a fair, accurate, accessible, secure and smooth election. And I would like to give you a flavor for that. Talking about, how do we disseminate practical voter information, 43 states -- and by the way, an important thing that we ought to keep in mind, and this is not only to be politically correct, but just to be accurate, we have to be mindful that when we talk about the universe of elections of the United States, we're not only talking about the 50 states. So, anytime you have a resolution or you have any discussions, don't just leave it at 50 state elections, because under the Help America Vote Act and other requirements of federal law, you're talking about 50 states, the District of Columbia, Puerto Rico, American Samoa, Guam and the U.S. Virgin Islands. So, you have 55 jurisdictions. You just don't have 50 states, you have 55 jurisdictions. And if you ever happen to be in a room where you have, say, Secretary of State Kenneth McClintock from Puerto Rico, if you ever speak of the 50 states and leave Puerto Rico out, he'll make sure to correct the record immediately. So, just to let you know.

But looking at our 55 jurisdictions, 43 of our jurisdictions have in place, online polling place locaters. They have -- all of them, all of the states have online web sites related to elections, but

43 states have polling place locaters where their voters can go online and find out where's their polling place, how to get there. 32 states have voter registration look-ups that will confirm whether you're registered or not. Some of the states began to use social networking tools to engage and inform the electorate, and we're talking about MySpace, Facebook, YouTube, to get information out. And in some states, California, Maryland, New York, Ohio, they placed ads on Craigslist and MySpace at jobs.com to recruit what we call the "next generation of poll workers." And, again, these are innovative ways that we're undertaking to make sure we do what we need to do. Last January, January of 2008, Iowa became the eighth state to offer Election Day voter registration. Washington also joined Arizona as the second state that offers voter registration via the Internet. And I know that California and Kansas are also going in the same direction. Delaware and the District of Columbia have offered voter registration wizards to assist the voters in the process of filling out applications, voter applications online. And the goal here is to minimize errors in the completion of those applications. Secretary Rokita will tell you more, but Indiana and nine other states allow for votes to be cast at Vote Centers that provide more convenience to voters when it comes to the issue of accessibility for voters with disabilities. I can tell you that in Pennsylvania, we have a terrible time in the County of Philadelphia when it comes to finding fully accessible polling places, because just the density of the population, and you have to have the voting place in a particular voting precinct or that district, and many times, you're talking about areas where you have a number of row homes

where you don't have the physical space to be able to make the place fully accessible. Fully accessible for us in Pennsylvania, there's 24 standards that must be met, and if you have one that you cannot comply with, say you don't have an accessible disability parking space, that alone makes the place legally inaccessible, even though everything else may be in place. And so, the fact that you have states moving towards Vote Centers, and I understand that can be controversial, because people say, "Well if the Vote Center is not in a location where people can get to it" and you have issues of transportation, that's also a concern. But, these are ways in which we're trying to address the need in a way that we consider to be reasonable. Admittedly, though, it's not perfect. We have other states, California, Florida, and others, that are offering online poll worker training, in addition to the States like Pennsylvania that have done specific videos. By the way, I did mention to you -- I said that we had produced two videos, and one I mentioned was "The Election Officials Training Program" that speaks about opening the polling place on Election Day. But, we also produced another video called "Assisting Voters with Disabilities." And to Mr. Dickson's point that was made yesterday, quite effectively, when you're going to do a video that addresses the needs of any particular community, don't forget to bring to the table and to the discussions and seek the guidance of that community that will benefit from your video. I've seen that mistake before, where you're trying to produce a video, I don't know, to address issues of Spanish-speaking individuals, and you don't consult the Spanish-speaking community that is going to benefit. And, in doing so, yes,

you put a great deal of effort that is well intended to do it right, but you miss the element of good feedback that you can have at the table prior to the issuance of that product. And, by being able to do it in conjunction with the community that is intended to benefit from the information, you have a stronger end result. And in our case, the “Assisting Voters with Disabilities” was a video that we put together in conjunction with the Pennsylvania Commission for People with Disabilities, as well as the Pennsylvania Statewide Independent Leading Council.

I think that I’m more interested in getting questions and I’m sure there’s going to be plenty. And I have many more figures that I can read from here, but I’ll stop here and allow Secretary Rokita to share his thoughts and then open the floor.

I do want to say that -- just conclude by saying that as part of my expressing gratitude to EAC, I must point out that we have been fortunate over the years in having a strong relationship with the EAC, to have EAC Commissioners visit our state on Election Day to witness how we do our business in Pennsylvania. We’re very proud of what we’ve done and our hard work and we are eager to share that experience with anyone who’s interested. And, as a result, back in 2006, we had, then EAC Chairman Paul DeGregario in Pennsylvania, and he witnessed elections in the western part of the state, and he had very good feedback to report. I will tell you that I was in a meeting of election officials, national meeting with Chairman DeGregario when he was asked to speak about his experience in visiting states, and he first spoke of Pennsylvania in a very encouraging, and I don’t want to say flattering, but a

complementary way. And I figured, well, he's doing that because I'm here and because he's trying to be nice. Well, then he went on to report on two other states that had Secretaries there, and he was not as complementary. And that just speaks to the fact that I believe he was being accurate. Either that, or he liked me more than the other Secretaries, and that's always possible.

[Laughter]

SECRETARY CORTES:

But, more recently, last year during Pennsylvania's primary election, which, by the way, you may recall Pennsylvania was -- we didn't think this was going to happen, but in the end we were in this enviable position where, after the primary election in Mississippi six weeks went by, and Pennsylvania was then the next state to have a primary, with six weeks in between. Everybody had their elections on February 5th and the 12th. We stayed with our election on the fourth Tuesday in April, thinking that, as always, we are going to be an afterthought. And, instead, we had six weeks of nothing but full attention to Pennsylvania. We made millions in dollars on bar tabs from the press and others who came to Pennsylvania and camped there. And, there was so much attention that it was incredible. But all that attention led to a great deal of scrutiny, and we felt that we were the epicenter of the elections world back in April 2008. And people asked me frequently, "Secretary, how do you feel about all the scrutiny and the attention that you're receiving?" More so, people wanted to make sure that, you know, how you're doing things or perhaps finding fault to criticize you. And I said, "Bring it on. We have a good story to tell and I'm delighted to have the

opportunity to showcase what our county election directors and other election personnel in the Department is doing.”

We were fortunate, at that time, to have in Pennsylvania for that historic primary election Commissioner Hillman. Commissioner Hillman was in the eastern part of the state, Philadelphia, and some -- Philadelphia and came to my home county of Dauphin County, where Harrisburg, our state seat is. And I would speak for Commissioner Hillman, but I will quote -- I don't know if I'll give you a quote, but I'll give you the feel for something she wrote in "Roll Call" shortly after her visit. In there, she talked about how the preparations and the diligence in Pennsylvania paid off and how she would hope that other states took notice of how Pennsylvania was running their elections to make sure we had a great election come November. And, I don't know that it was because people were paying attention to Pennsylvania, or because of the due diligence that everybody was exercising, in fact, it was the latter, that we had such good elections come 2008, administratively speaking. So, I want to thank Commissioner Hillman for being there to witness what we're doing in our state, which, by the way, is not perfect, but we do it with a great deal of passion and I think it works pretty well.

Thank you.

[Applause]

CHAIR THOMAS:

Well, in Michigan we frontloaded. Yes, nobody much cared. I'd like to introduce Secretary Rokita, who is my neighbor to the south, and ask him for his reflections on the 2008 election.

SECRETARY ROKITA:

Thanks, Mr. Chair, Secretary Cortés. I appreciate your remarks as well. I want to engage the group here, it's after lunch, and I want to reserve a lot of my time for color commentary response to some of your comments. And Secretary Cortés laid a lot of it out well.

Let me just make a few points, maybe, to keep the blood moving a little bit.

SECRETARY CORTES:

You're not saying that I put people to sleep, are you?

SECRETARY ROKITA:

No, the lunch did.

[Laughter]

SECRETARY ROKITA:

No, Mr. President. I try to look at -- speaking before my peers here, your fellow leaders, and I use that term specifically -- we're responsible for an electorate. We have the responsibility to make sure people have confidence in the process. So, when I look at 2008, and what went right and what little went wrong, I try to look at it through that lens, because, as you know, if the voters don't have confidence in the system, people will not come. If people do not believe in coming to the process, then we lose the republic. And, as I sit in these kinds of meeting with you all, I, kind of, keep that in the back of my mind, because at the end of the day, for me at least, and I hope you share some of that sentiment, that's why we're here.

And, in 2008, a lot went right. There was a lot for the voters to have confidence in. And, it goes back to some of the key things that Secretary Cortés mentioned, preparedness, I think, number one. We controlled those things that we could control.

My fear is that we're going to have another election, right? And the media who represents and portrays our story, a lot of times unfairly, sometimes they get it right, to our constituencies, to the voters, has set the expectation so high, right? I mean, the reason I know we were successful last fall is because we were not the story. The candidates were the story. Sara Palin's wardrobe was the story, right? Another speech. But we were not, the process was not. And that's a high bar. And knowing there's going to be another election, I think it's imperative upon us as leaders in this industry, if you let me use that term for a minute, to make sure that the expectations are properly couched. Like Secretary Cortés mentions, there is no perfect election, right, because humans are involved, the pesky little things. And by Biblical definition of the word "human," no election will be perfect. It has to be fair and accurate, and I think that's what it was. We have to remind the media of that. And there are things we can do to remind the media of that. We can remind them of ACORN, which was a big problem in my state. It clogged up voter registrations and local offices, thousands fold. We have the Social Security Administration who shut down the database, what, three weeks before the election, causing problems. Again, we were not the problem. The point being, I think we have got to -- the media they're simple, forgetful

folk. There's none in the room, right? And they need to be reminded that fairness and accuracy is the goal, if not perfection.

So, with that I would like to -- I'm sure I said some things that's going to strike up some conversation, hopefully. I'd like to hear from my fellow leaders on these issues.

Mr. Chair.

CHAIR THOMAS:

Questions? Comments? This is a good opportunity to say what's on your mind regarding the 2008 election process, where you think we might be headed next, in terms of any reform movements or changes in law. We invite our friends from the Hill to feel free to chime in, if they so like.

Comments from the order. Terri?

MS. HEGARTY:

I do have one comment. You had mentioned Secretary Cortés, about one of the key things that will help an election is educating voters, having the electorate informed. How did you do that? Did you do it by having sample ballots on the Internet, so that when they checked where they vote, they actually had the ballot that they'd know who would be on or off? In Michigan, some of the candidates were not on our ballot, and that was some of the things we heard during Presidential primary, all of a sudden, "Where is Barack Obama? Where is Barack Obama? He wasn't on our ballot." So, did you send out sample ballots, mail them, post it on the Internet? I'm just curious how you handled informing the voters.

SECRETARY CORTES:

Thank you, Ms. Hegarty. To repeat the question, in case somebody didn't hear, the question is, I made reference to having a well-informed electorate, preparing the voter to make meaningful decisions, or at least, in my case, it was more to participate. And, what form does that take? What are some of the specific examples that the State of Pennsylvania and others used to achieve that goal? And, one of the examples brought out, was, did we make sample ballots of the candidates available to the public? We didn't in Pennsylvania.

Let me just go back, if I may. When I talk about voter education, and I think it should be probably rephrased as voter preparedness, I was talking mostly about what I call the fundamentals of having that person get to the polls and having what I would consider a good experience. Meaning, the person has to know what are the requirements to register, and has to register. The person needs to know where to vote and how to get there. The person needs to be familiar with their voting system. The person must be aware of requirements for, say, voter identification. The person needs to be aware that you have a right to a provisional ballot. By the way, you also have the right to a complaint form if there's something that you thought violated your rights under the Help America Vote Act. That's the basic preparation that the states undertook, and most of them did it, by the way, by the examples that I shared, by having fairly robust web sites with that information. You also had many of our Secretaries of State did public service announcements. We were heavily engaged with the media in doing presentations and putting out press releases to make folks aware of

those basic elements of preparation. Some states then took it to the next level, which, Terri, gets to your point, I think, is you need to have a properly informed voter wishes to know, "Who are the candidates? What are, perhaps, their various positions?" And that we didn't do in Pennsylvania, and I could not give you statistics as to how many states do it. I know, for example, that Washington State and the State of Oregon, perhaps because of their nature of voting by mail, they send fairly detailed voter guides to all of their voters, and also print them online, where you could have -- and California does the same I understand -- where you will have information and you can go to the web sites and find out who the candidates are. That's something that we're working on in Pennsylvania. We have so many jurisdictions that it is a bit of a logistical challenge, is an understatement, logistical nightmare, which is what it is, to try to put it altogether. What we have to do, at times, in the case of Pennsylvania, is, we rely on some of our non-governmental partners, such as the League of Women Voters, and other groups that set forth forms for that type of discussion. Most of the efforts were directed to the mechanics of getting folks registered and getting them to the polls. Other states, and maybe, Secretary Rokita can speak specifically to his state or others that he's aware of, went that extra mile to do what you suggest. The challenge is money. A lot of what we're talking about costs money and takes a lot time to do. And, I'm eager, always, to learn about what practices are in other jurisdictions that we might be able to take and do in Pennsylvania.

CHAIR THOMAS:

Bill, did you have a question?

MR. COWLES:

Bill Cowles. Secretary Rokita, the one pre-storm issue was photo identification at the poll. You weathered the storm, Election Day went fine, right?

SECRETARY ROKITA:

Yeah, and that was not a plan. How did photo ID go? It was one of the pre-storm, "sky is falling" issues that media and others brought up. It went fine in Indiana, as it had gone fine in the last nine elections that we've had. So, we continue to move on. I was asked to testify in three different states since the election, state legislators who want to try a similar idea. Now, in Indiana if you have someone from out of state come in and testify on a bill, that's a sure-fire way to get the bill defeated. So, I wasn't sure why they wanted me to come, but we did. And, so far, it's going well. And, again, it's about voter confidence.

When I told my mother I was going to go to law school, like maybe some of your mothers, wringing of the hands, wanted a doctor in the family, that kind of thing, I remember at the time I said, "Mom, don't worry, maybe one day I'll get to argue a case before the Supreme Court." Well I didn't get to argue this case, but I was a named defendant. So, I still think we're getting some of that hand wringing. A longer way to say, that it's going fine. I think it will do fine.

And, it's opened the door in Indiana for some new reforms. One of the few bills that got passed in Indiana is online voter registration, which I think is a step, thanks to Sue Landske and

others, is a step towards one day Election Day registration. And a lot of folks around the state and country who know me and this photo ID issue say, "How could you be for something like Election Day registration when you're Mr. Photo ID?" I said, "Absolutely", because once you get some foundational pillars in there, like the photo ID, you should be able to leverage technology and leverage new ways to do things to make the ballot more accessible, that's what it's all about, in a confident, secure way.

CHAIR THOMAS:

Libby.

MS. ENSLEY:

Well, in 2008 a lot of places saw quite a shift between instead of lines at the voting place, lines for early voting. I was wondering, if, in both of your states, you had found that and what recommendations you might have for helping in that area.

CHAIR THOMAS:

This is a question dealing with early voting and lines shifting from Election Day to lines on early voting.

Mr. Secretary?

SECRETARY CORTES:

In Pennsylvania, we don't have early voting in the physical way of physical early voting. We have absentee voting, but even that is not as accessible as I would like to, because we have restricted reason or excused absentee voting. I can tell you that the reason why you saw, in those states, such as Florida, that have early voting, why you saw the long lines -- and by the way, I'm now paraphrasing what I've heard in other forums from Secretary Kurt

Browning from Florida -- is the fact that, and it makes sense, on Election Day, the State of Florida had over 7,000 voting places. For early voting the voting locations were less than 300. It's just the math of it. You have greater access to polling places on Election day. You have less access to the polling place by way of numbers at polling places prior. And, in fact, there was a strong desire on the part of the electorate to vote early in those states where that opportunity was presented. I also believe that what you have is a learning curve of how to get all the logistics in place, and being that it's fairly new to so many jurisdictions, having the early voting, that presented those logistical challenges that led to what many times you saw were very long lines. My family lives in Florida and my mother and my sister voted in Miami. Yes, they had a longer wait for early voting than perhaps the voters who voted on the actual Election Day in November. But one thing that Florida does well, for example, is -- by the way, my entire family and my wife's family lives in Florida, so I can speak from experience there. One of the things they did in Florida is that people who were waiting in line they were handed out a sample ballot of what the ballot looked like while they were in line, and that way, by the time they got to the booth the experience was a bit quicker. But, I think, very generally speaking, I think the long lines can be attributed to the strong interest in voting early by so many of the voters, and also, the fact the number of polling stations that were available for voting as opposed to what you had on Election Day.

I don't know if somebody else can speak to it.

CHAIR THOMAS:

I would only note, in Michigan, we don't have early voting, but the impact of the national media and that's what we are right now, it's the national media that drives everything, is that our clerks had people standing in line to get an AB ballot application. You could print that off the Internet, you could call and they would mail it to you, and literally, people standing in line for an hour, hour-and-a-half just to get up there to fill out an application that they could have filled out anytime and sent it in. But it was this concept of early voting and they were not going to be dissuaded that we don't have early voting. So...

MR. COWLES:

Chris, can I just -- a clarification for Secretary Cortés? In Florida, we can only do early voting in three locations; our office, libraries, and city halls, which definitely contributes to limited locations and not very good locations.

CHAIR THOMAS:

Thank you, next question.

MS. PURCELL:

I'll add that, too, we do have early voting, vote by mail and in person. And we had lines at our early voting stations in person we think, because we oversold that, you know, "You don't want to wait until Election Day and be standing in line on Election Day." So, everybody came to early voting and we had lines. And we've never had lines before, and we've had early voting probably for 14 years.

CHAIR THOMAS:

And, I think another phenomena that we all saw was early voting on Election Day. No matter how much we all put out the

message, "Come between ten and noon, and maybe to three in the afternoon is the best time to come," it seems to be pretty universal that we got slammed first thing in the morning.

Jim Dickson?

MR. DICKSON:

I wanted to make two points. I think, and there's some evidence, that the drive for early voting and the lines on Election Day, in a way, are really driven by the media. When the media says, "The election is going to be too close to call," the desire of the citizen to get there and vote and get there early goes way up. And when the media reports all this polling stuff, that's really a message that says, "Don't go to the polls, it's done." And, I think that whole question of how the polls are reported is important, because in many, many cases, I think it's a major factor in depressing turnout.

Several people have mentioned showing the voter the ballot early, giving them a sample ballot. There's an interesting study on the MIT-Caltech web site that looked at voter error and, you know, the controversy in Florida 13. Those voters who got a sample ballot make fewer mistakes no matter what the voting mechanism is. So, you know, I think sample ballots are something that should really be looked at and encouraged. And that study is at the MIT-Caltech election project web site.

CHAIR THOMAS:

Thank you, Jim. Commissioner Davidson?

COMMISSIONER DAVIDSON:

I know that Secretary Rokita tested out Voting Centers. I think there's a lot people here that maybe never heard of that or

that concept. Did people like it? I know you tested it in a few counties.

SECRETARY ROKITA:

Yes, thanks. The question was Vote Centers and how it went in Indiana. It's an idea that we stole from Colorado. We actually went out there. I took a bipartisan delegation in 2005, because Indiana in 2005 didn't have any elections that year. So, we got to see Vote Centers work on Election Day in the place where it was born, Larimer County, Colorado. It's the idea that you vote how you live, real quickly, the idea that you vote how you live in the 21st Century. And we can leverage technology now. Again, when you have foundational pillars like a photo ID and other things, you can start leveraging technology in ways to vote how you live. There is no reason we have to vote in a precinct structure anymore if we do not want to. We have poll books that can be electronic, that can be tied together in real time. So, when Todd Rokita goes to a Vote Center that may be on his way to drop off his 15-month old at the daycare, I can vote right there rather than racing back to my precinct. I can do that at 9:08 a.m. And then, because of the kind of guy I am, I try to do the same thing across town at 10 o'clock.

[Laughter]

SECRETARY ROKITA:

I get bumped out because the system saw immediately that I was somewhere else at 9:08 a.m., and in fact, I got my ballot. You can get your ballot, because of the voting machines we have now, ballot-on-demand and other things, you can get from ballot, from

President of the United States all the way down to precinct committee as if you were back in your precinct.

In Indiana and across the nation we're celebrating the 200th anniversary of the birthday of Abraham Lincoln. And, for some reason we still vote in many parts of the country, and Indiana, as if he was still on the ballot. And he's the one that invented it, as far as I can tell I'm an amateur historian, he invented the precinct structure or had a hand in it. So, not the way to do it, I don't think, if we don't want to anymore. We piloted it. And, I think this is Donetta's point, this is the approach you ought to think about taking, because so far it's been successful, roadblocks here and here, but we got the camel's nose under the tent by piloting it and making it an option in the county that wanted to do it. It's not a force down from the state. And it has to be unanimous. Both parties in a country have to agree. It has to be unanimous with the county commissioners and everyone else. If they want to choose to do it, they should be able to do it. We piloted it in three counties, so far great results, not only from accessibility standpoints, but also from fiscal standpoints. The cost of elections in those three counties has gone down anywhere from 30 to 50 percent per election, saving hundreds of thousands of dollars per election. So, it's also -- Sue Landske and I and others are making a fiscal argument to this, too, not just a voting argument.

CHAIR THOMAS:

Well, that stimulated some questions. Doug Lewis, did you have any?

MR. LEWIS:

Yes, just one comment, and then a question for the panelists. You know, it's absolutely amazing when you look at the Census Bureau data that says there are 87,000 separate jurisdictions, governmental units in America, and we elect on the order of about 580 plus thousand individual elected offices in America. And all of that comes together in an election, you know, with 133 million voters and 179 million registered voters. So, you know, it's amazing that the thing works at all, quite frankly. When you're talking about 7,000 election jurisdictions and 1.4 million poll workers, it's kind of amazing it comes together.

The question is, is there seems to be a continuing push on the part of some special interest groups, certainly on the part of some Congressional folks, to want to continue to change the process and to have more "uniformity" of the process. That Siren Song of, "If it's uniform, therefore it's more fair", somehow. In the experience of what each of you, all three of you that have been in elections, now, for awhile, what is your opinion of which direction we ought to take in this? I mean, should we continue this enormous push to make major, major changes to the process and/or is it at the state level or at the federal level? Where is that push to come from?

SECRETARY ROKITA:

Without putting words in Secretary Cortés' mouth, I mean, I consider us both state's rights kind of guys from a Constitutional perspective, so my feelings on this comes from the Constitution. And the fact of the matter is, the Federal Government doesn't have much say in this, and it shouldn't. From a larger, again,

philosophical perspective, the government -- I think there's a distinction lost on the electorate and many of our poll workers. And, I try to say this in Indiana as much as I can, the government does not put on our elections. Yeah, you can argue that I'm paid, my salary is paid, Keith's is paid, all of ours may be paid from some portion of the government, but it's really the people that are putting on the election, and then, we're saying who we're sending to the government. And I think that's a philosophical distinction that's lost, and that's mostly manifested through our poll workers who, in Indiana at least, are represented by the political parties who represent the people. So, the people conduct our elections and we send the government who we want to. And that's the ways I likes it.

SECRETARY CORTES:

I echo the comments of Secretary Rokita. I will take, I think, it's a consistent position, but it may sound contradictory, I, for one, love consistency and uniformity. One of the things that I like the most about McDonald's, I think they have it right, is that no matter if I order a Big Mac here, in Taiwan, or in Paris, to me it always tastes the same, which, by the way, I don't like a whole lot of it, you know. But, at least I don't have to worry about it. But the point is that there's no guess. Consistency is great, because there is no wondering if I go somewhere else, is it going to be that much different. And when it comes to elections I wish that in Pennsylvania I could, for example, determine the voting system that is used in every county, not to abdicate the right of the counties and their say, but because it will be logistically much more easier for

poll worker training, and especially voter education, if everybody, we have a mobile society, if people could just have the same.

The bottom line, though, is that one size does not fit all when it comes to elections. And it doesn't fit -- I'll give you Pennsylvania as an example. What works for Philadelphia, the fourth most populous city in the United States, doesn't work for the voters of Forrest County, one of our counties where you don't have a single traffic light. It just simply doesn't work. And you try to sort of peg, you know, the round piece into the square hole. It just doesn't work. And I think that recognition then goes to the heart of what Secretary Rokita says, so, constitutionally established in a way that I think the framers had it right, because it recognizes/acknowledges our differences. So, I'll say that much.

Speaking very briefly about the issue of changes, our elections were conducted pretty much the same way for 50, 100 years. They didn't change a whole lot. The equipment didn't change. The procedures didn't change. And, all of a sudden, after the Presidential election in 2000, and with the passage of the Help America Vote Act, there has been an onslaught of change. I appreciate change, because I'm on an eternal quest for improvement, so from that standpoint I can appreciate the end goal. But the fact is that you need to give us -- by the way I'm preaching to the choir but it's good to have choir practice every once in awhile. We need time to implement changes. It doesn't help me to go out and buy \$100 million worth of voting machines for you to tell me two years later that I need to replace the whole thing, not only because I don't have the money to purchase new

equipment, but because it confuses not only the poll workers that have been trained on that equipment, it also confuses the voters that have to work on that voting system. So, I'm not against progress, I'm just saying from a practical standpoint, give me time to implement what you're giving me. Therefore, I would hope that Congress heed that concern. And when you're considering all these great ideas about how to improve the system, realize that from the practical standpoint you need to give us time to just do what you just asked me to do, and then, after that is implemented, perhaps we can move onto the next level. But it's just moving so quickly that it makes your head spin and your stomach, you know, wrench.

CHAIR THOMAS:

Yes, and one comment I'd make there is, you know, where do the innovations come from? I mean, they come from the pilots that are done within states and then the whole state puts it on, whether it's voter registration, whether it's "Motor Voter", whether it's registration in agencies. Those were not ideas that came from the Federal Government. Those were all ideas that were already in place in various numbers of states that the Federal Government took and said, "This makes sense. It's already working. We know it can work," and then applies it nationwide. And there is some concern about, you know, major reform that has not been tested, road tested, if you will, just being implemented nationally with the hope that it will really work. I think there's some real caution that folks need to look at there. And we would hate to lose -- I mean, the state level, yes, we try for uniformity within our state, that's the

fair and equal and all that, but not from state to state necessarily. And I think the states are the ones that are going to bring, along with the local units of government, the animation forward.

Secretary Nelson, and then Barbara, and then Keith.

SECRETARY NELSON:

If I can just follow-up on Doug's question. 2008 in South Dakota was by far the smoothest election that we've had post 2000. And my comment the day after was, "If I could have an election like that every time, I would take it in a second." And part of the reason for that was is we weren't implementing any new federal mandates and those kinds of changes that cause some of the problems that we've experienced. So, Doug, we're good right where we're at.

CHAIR THOMAS:

Barbara.

DR. SIMONS:

So, just a quick comment and then a couple very short questions.

There was talk about the sample ballot. In California, our ballots are so complicated that if you didn't get a sample ballot and figure it up beforehand you'd be 20 minutes, at least, trying to vote. And, of course, that highlights one of the issues, which is, it would be a lot easier if we had simpler ballots. It would be a lot easier in many ways. And, of course, there's nothing anyone in this room can do about that, but it's just very frustrating.

I was wondering about the videos you mentioned, if those are on your web site. And then, also, I had a question about the polling -- the centers versus the precincts. It seems to me, at least

in principle, the idea would be to have the centers, before, as early voting, and then the precincts for Election Day. I know that's a lot of work and, you know, but it seems to me -- a question I have about the centers is, how do you deal with the security of the voted ballots that you have to keep around for several days before Election Day?

SECRETARY CORTES:

If I may address Dr. Simons, your question about the videos that I mentioned, the video for the election officials as well as serving voters with disabilities, yes, those videos are on the Department of State's web site. Our web site is very easy to remember, VotesPA.com, and that will direct you to our site. And if you have any problems getting those, let me know. So, we do have those videos available.

SECRETARY ROKITA:

And then, with regard to Vote Centers, we've had no security problems. Of course, Vote Centers happen on the day of the election.

DR. SIMONS:

We don't have early voting.

SECRETARY ROKITA:

You can couple Vote Centers with an early voting system. In Indiana it's been around for years. And you can, coincidentally, make the early Voting Centers, early Satellite Centers, we call them, match up with the Vote Centers on Election Day.

As far as security during the early voting process, it's really an absentee process in Indiana. So, none of the votes are counted

before Election Day, and they're secured like any other absentee ballot system -- any other absentee ballot mechanism would do.

CHAIR THOMAS:

Keith?

MR. CUNNINGHAM:

I would like to suggest that America's election officials have paid a terrible price on behalf of failed legislators, both state and federal, and I would base that on the fact that all of this goes back to the year 2000. And I would ask what other organization or agency, be it private or federal, was still relegated to using punch cards in the year 2000? It seems to me, the only people that weren't surprised that a punch card system could not count within 500 votes of an entire state were election officials. We knew that. We have seen a tremendous effort over the last eight years and a significant amount of money put into the systems, into our efforts. But we're not at the point where all of our budgets are being, whether it be federal, state or local levels, are being cut severely. What's that going to do to us? I mean, where do you see our progress from here, under the economic conditions that we're going to have to deal with in the coming five or six years? Is it going to stop us? Are we going to get right back to the 2000?

SECRETARY ROKITA:

There's a legislator here. I'm going to defer this one if I could, Chair, to a legislator.

MR. REYNOLDS:

Let me speak up a little bit for legislators. When we consider legislation, all kinds, some will say, on the one hand we want this,

but on the other hand we want that. What we need is some one-handed election officials. We have proposed in our state early voting, passed it through the House three times. And we have some officials that yet -- you know, we've got both parties, you know, at least in the House, supporting it and we have -- the young people want it. They want the technology. Don't you agree that young people -- these things are being pushed, the innovations, the early voting, voting centers, by young folks a lot of times in the economy and the lifestyle that we have. But I think that if we could get these changes, you know, with support from election officials and support from -- bipartisan support, we could save a lot of money and actually move into -- we may not move into the 21st century, but we could move into the 20th century, which would be a big improvement. And I think instead of going back to 2000, maybe we could go a little bit farther.

SECRETARY ROKITA:

Any other legislators in the room that want to speak to this subject before I put a capper on it? Here's...

MR. CUNNINGHAM:

The question begs the issue, though, that have the improvements we've seen been a result of the money that's been spent? And are we going to cease seeing those improvements now that the money situation is different? Or are we going to be able to find ways to...

SECRETARY ROKITA:

Yes, I do want to put a capper on this. But Mr. Hicks had his hand up and I think you can add something significant to this.

MR. HICKS:

I'm Tom Hicks, Senior Elections Counsel for the Committee on House Administration. And the thing that I wanted to say was that last week Chairman Brady authorized us to go to a few military bases in Germany to hear from our men and women fighting abroad. And when you folks were talking about uniformity, they were coming to us saying, "Why can't it be more uniform?" When they're in Afghanistan and Iraq sitting next to, you know, someone from Indiana or someone from Pennsylvania, and they have different rules on when they can register to vote, they were saying, "Hey, why can't it all be uniform?" So, when the Uniform Law Commission comes out with their proposals, I would like for you to, you know, take an in-depth look at that.

Another issue is the things that, you know, the things that Indiana was moving towards with the uniform -- with the voter registration on using the Internet for that. Why can't more states do that so you don't have the Federal Government having to say, you know, "Everyone should be doing this because that's a good idea that Indiana is doing, you should take a look at that." So, I know Doug is going to, you know, try to yell at me a little bit more about this later on. But the Federal Government, you know, we're not here to, you know, just throw more mandates at you. And, you know, Chairman Brady is not trying to implement more laws that go into effect during the election. This is why he's saying we should talk about these issues, now, in an off election year, especially when we feel that things have gone pretty smoothly. And, if there are some things that can be looked at nationwide, then we should

be looking at them. Not necessarily implementing them, but at least talking about them.

So, as the representative from the Committee, I would just like to say, you know, we're not going to just throw money at an issue or just throw topics at an issue. We want to help improve the system for federal elections. So, that's it in a nutshell. I'm enjoying hearing this, because that's what Brady sends me to things to get yelled at a little bit, so feel free. And we're just here to hear.

That's it.

SECRETARY ROKITA:

Thank you, Mr. Hicks, appreciate it.

COMMISSIONER HILLMAN:

Chris?

SECRETARY ROKITA:

Other questions?

COMMISSIONER HILLMAN:

Chair Thomas, I guess there are two things in response to what Keith is raising, but also to the legislators. While Congress hasn't fully appropriated the amount of requirements payments authorized under HAVA, more money is available for the states. And that is sort of "sacred money" in the sense that it has to be used on the improvement of election administration. And -- now the states have to appropriate the five percent, but there are millions of dollars sitting here, as you saw on the chart. And so, the issue between states and locals about how that money is used, and, you know, I mean that's a different conversation. But, that is, at least, one piece, which I have to admit surprised me that Congress was

willing to eke up more money, even a little bit for 2010. Whether that survives or not, we'll have to see, but it's on the drawing board for 2010. I think Congress heard the message and they're trying to get closer and closer to full appropriation.

But the other political issue, and some members of Congress need to understand this, is the HAVA dollars were appropriated as no-year money and yet there are complaints that states aren't spending it. Somehow, that conversation has to come in line with why states aren't spending. I don't remember who's here from New York, but New York is an exception. States have taken various approaches as to how they would want to try to spend the money to make the improvements and save some for a rainy day, but that conversation I think should be more transparent because then, maybe, more members of Congress will understand what the state strategy is, as will the constituency groups and the voters, because to hear that states have federal dollars for the improvement of elections and some group thinks something needs improving and says, "But the state isn't spending that money" isn't a helpful conversation.

SECRETARY ROKITA:

I think it can be solved with one sentence in the GAO report that explains that. I mean, just because the money sits at the federal level or the state level is simply a matter of geography. It's an issue of whether or not there's some planning behind it. In Indiana, for example, we have money sitting at the Federal Government. It doesn't mean we don't have plans for it, it just means we haven't drawn it down yet.

COMMISSIONER HILLMAN:

Well we drawn it down, but for some states it's sitting in the state...

SECRETARY ROKITA:

Yes, so it's a matter if there's a plan for it or not.

COMMISSIONER HILLMAN:

Right. Right.

SECRETARY ROKITA:

I think just a couple of sentences in the GAO report could really help that, and I think we all missed that boat to a certain extent, or we all just weren't -- maybe it's not the GAO, whatever organization or institution reports this stuff up to Congress. It's not the EAC.

COMMISSIONER HILLMAN:

Like the EAC?

SECRETARY ROKITA:

No, no, I didn't mean that. I got my snarky comments for later. Those weren't one of them.

CHAIR THOMAS:

Okay, Doug, real quick.

MR. LEWIS:

Yes, I think the states that are in the room need to be aware that both sides of the aisle have mentioned this unspent HAVA funds, and they keep mentioning it to the extent that we understand there may need to be some legislation introduced to say that those who have not already spent it, give it back. And so, I think either the states have got to explain this and explain this well, and do so

quickly, or risk seeing the money go bye-bye. And so, it's one of those where I think we've asked repeatedly for the states to do a better job of explaining this, and it's now got the critical mass.

CHAIR THOMAS:

Well one thing about that, I mean, there's no real venue to explain that in. I mean, nobody has really asked the question, nor is there a reporting mechanism that says, "Okay, what are you doing with your unspent money?" I mean, we're sitting on a bunch of it because we didn't have to build a statewide voter registration system. But we're going to buy another election system, another voting system at some point, and we continue to spend money for infrastructures. We are not just going to blow this money by, you know, giving it to everyone and say, "Hey, run some public service ads," or "do this, do that," money for nothing. We think that the money ought to go into solid programs that you can't just dump the money into. It takes time to spend. I mean, for us to get a contract out, it's 18 months, you know, by the time you go through the bid process. We're dealing with...

COMMISSIONER HILLMAN:

So, I think the state plans -- that's why we're talking about transparency. So, I think the state plans are the vehicle to make that very clear, and the reports to the EAC -- the annual reports to the EAC, on the expenditure of funds and your state plans. I mean, those are the two vehicles.

CHAIR THOMAS:

But, there is really nothing in either one of those that call for that kind of explanation. There's nothing in there that says, "What are you doing with the money?" "We're earning interest."

[Laughter]

CHAIR THOMAS:

Which is what is very different and we're very appreciative to the Federal Government for that, because, typically, the Federal Government hangs on to all that money and it's all done by draw down. I mean, the beauty of this money is they gave it us as no-year money, so I read that as not an expectation that you'll spend it in two years or three years. If they want to put caps on it and take it back, you know, that's theirs to do. But it was given to us as a no-year money to improve the conduct of federal elections, after the requirements are met. And I think that that's what we are all doing. And as Secretary Rokita indicated, there are plans, I think, in every single state with the balance that's left about how they are going to go about that. I mean, some of those plans may be very crystal. Some of those plans may be somewhat generic in terms of a rainy day fund. But, I think most of it you will see, is, you know, people have ideas; buying electronic poll books for units of local government, continuing to work on programming for tabulators and the type of infrastructure requirements that must be put into that, that the locals can't afford, Election Night returns. I mean, these are one project after another, but none of which you can just dump out there in one year and say, "Yeah, we're going to have five vendors in here working on this, and we're going to get a good product at the end." So, I mean, if they want that kind of reporting, I

don't think the states object to it. All I'm saying is I don't think anybody has asked for it.

Tom Wilkey?

EXECUTIVE DIRECTOR WILKEY:

Chris, just to clarify here, because I spend a lot of my time, as Commissioner Hillman knows, dealing with staff in the House and the Senate with our Oversight Committee, I'm glad to see them here today, but with our appropriation staff, as well. And, that is the single most asked question that we are asked to brief, particularly the appropriation staff. And I want to make it clear that we have always given the exact same reasons that we have just talked about, you know. They're spending this money wisely. They're holding onto it for long-term maintenance activities. They're holding on to it because they may have to change a voting system in five years. So, I don't want the state folks to go away from here thinking that we're not, you know, being an advocate in this regard, and that when we're asked we tell them. Now, certainly we could make that, and we would be happy to accommodate in any way we can, making that part of your report that we give to Congress, but I don't want you, again, to leave here without not knowing that when we're asked, that's the logic that we use, because we know that's what's happening.

CHAIR THOMAS:

Well, we appreciate that.

EXECUTIVE DIRECTOR WILKEY:

And, I think that's one of the reasons why we have continued to see the additional appropriations that we are receiving. Those

have come from Congress. Now, in 2010, the President's budget for the first time has requested some money for this purpose now, not the amount that you have been getting, given the fiscal situation, but about half of the money that you got in '09. So, we see that as a good sign, and will continue to make that case when we're asked. So, I just wanted you to know that.

CHAIR THOMAS:

Yes, I think we all definitely appreciate those efforts.

Secretary Nelson.

SECRETARY NELSON:

If I could just make one comment on that area. If the mandates of HAVA were set to sunset in, let's say 2010, then I think that's a relevant question to ask, but they aren't. Their mandates can go on for perpetuity. And any state that is not keeping some of that money to pay for those mandates in the perpetuity is going to end up having to have the locals and the state pick up that money and that money isn't there. And so, I can say very clearly from South Dakota's perspective, we're being as conservative with that as we can, so that we have money to continue to fund the mandate for as long as we can, because the mandate isn't going away, I don't think.

COMMISSIONER HILLMAN:

And, just to echo Mr. Wilkey, we all understand that and we say that, but sometimes it sounds like it's anecdotal from the EAC. And, all I'm suggesting is if the states were more transparent in explaining that, it would make our job a lot more easier, and

perhaps your delegation would better appreciate that there is a plan, and here's the plan, and here's what it is.

CHAIR THOMAS:

Okay, Joe Crangle will be the last, and then we will break.

MR. CRANGLE:

Mr. Chairman, I don't represent any particular group other than that the House Administration was kind enough to appoint me, [inaudible] but let's also always remember we live in a wonderful, beautiful country.

[Applause]

CHAIR THOMAS:

Join me in thanking our presenters today. Thank you.

[Applause]

[The Board recessed from 2:07 p.m. until 2:30 p.m.]

CHAIR THOMAS:

Mr. Cunningham.

MR. CUNNINGHAM:

What we're going to do is we're going to begin, as expeditiously as possible, moving our way through the various sections of the VVSG that have been changed. What I'm going to ask you to do is allow the presenters to go through a section, and then we will ask questions at the end of the section. We've got a lot to get through here, and if we don't let them do their thing and keep taking them off track, I fear that we may be here longer than we need to be. I know this is really interesting stuff and you're all dying

to hear about it. So, if you would, please, let them move through a section. At the end of a section we'll pose any questions, and then when the presenters get to a point in the presentation where the Committee has made a recommendation, they will defer back to myself or somebody on the Committee, probably Wendy, and -- I'll defer to Wendy, and we'll try to explain the Committee's thinking at that point, and perhaps at that point we can also deal with the Committee's recommendations one at a time by motion, and not have to try to do it all in one big fell swoop at the end.

So, if that's okay, we'll proceed. If it's not, we'll proceed.

And Mr. Thomas you have the floor.

CHAIR THOMAS:

One quick second, Doug Lewis, is there any change from the Proxy Committee as we get into the afternoon here?

MR. LEWIS:

One change is is that because Mr. Donsanto is here, there is now a valid proxy from Abigail Thernstrom to him for any votes that may be taken. So, other than that -- well, just a minute. I guess, Don Jones has left and he has given his proxy to Mr. Crangle. And Philip Jenkins, upon his absence, Mr. Gardner will have his. Okay?

CHAIR THOMAS:

And Ms. Noren has a proxy, is that correct?

MR. LEWIS:

Yes, Ms. Noren has a proxy from Secretary Carnahan. And so, those are the ones that are current and valid.

CHAIR THOMAS:

Thank you.

MR. CUNNINGHAM:

Okay, John, Lynn, Matt?

MR. MASTERSON:

I believe John is just going to walk us through. He's going to read the document in its entirety, if that's okay.

MR. LEWIS:

Word-for- word.

MR. MASTERSON:

Word-for-word.

COMMISSIONER HILLMAN:

Word-for-word.

MR. LEWIS:

Word-for-word, yes, please.

MR. MASTERSON:

We've got cots out in the lobby for the rest of you.

MR. LEWIS:

Can he do it from memory?

MR. MASTERSON:

Yes.

MR. LEWIS:

That's what I was afraid of.

[Laughter]

MR. WACK:

Actually, what we're going to do is starting with Commissioner Davidson, I'd like everybody to read a paragraph, go around, and then, when we get to the end we can discuss and share.

MS. ROSENTHAL:

With feeling.

[Laughter]

MR. CUNNINGHAM:

Now this is Version 3.1.

MR. WACK:

Okay, I don't really know how well this is going to work, looking at the screen, but I will put it up on the screen. I presume that you all have copies, paper copies.

MR. CUNNINGHAM:

No.

COMMISSIONER HILLMAN:

No, do not presume that.

MR. WACK:

Okay, well, I'll do my best to give you a good overview. At the same time, I think that, you know, there's nothing that will substitute for sitting down with a paper copy at some point and going through.

MR. MASTERSON:

To clarify what you have, the sections of the document that you have represent the sections that the Committee made recommendations on. So, when we get to the Committee recommendations, you do have the sections of the document.

You have a CD in your binder that represents the entirety of the document, if you have a computer here and you wish to view it that way. Correct?

COMMISSIONER HILLMAN:

And, we have a couple of hard copies of the full volume. If anybody wishes to refer to it, it looks like this [indicating]. It's about that thick. And, for Mr. Gardner and Mr. Dickson, one is about two inches and the other is about an inch thick.

MR. CUNNINGHAM:

Are we working in Volume I, Volume II? Or are we...

MR. MASTERSON:

We're going to start with Volume I.

MR. CUNNINGHAM:

...working on that little pack of papers? Are we going to go through the big documents? I mean, what are we doing?

MR. MASTERSON:

He was going to walk through the big document, stopping at the portions that the Committee commented on, but walk through the, you know, at least the changes in the big document, so you can understand the changes. But we will stop at each point that the Committee had recommendations. And we are in Volume I, Chapter 1.

MR. WACK:

So, a couple of things to begin with that are fairly general. But I'm starting with the introduction, and what we did here was we tried to, basically, highlight any text that was changed. And you'll see in here that we used strike-through in different colors to indicate the text that was added and the text that was removed or text that was edited, where it was practical. In other words, we could manage the use of Microsoft Word styles as well as where it was practical, where we thought for the reader, we would try to

cross out and add words within paragraphs, as opposed to, you know, replace a paragraph completely with the new text. And the idea behind that was simply just to make it easier for you to quickly see what material was different, what material had been changed.

Section 1, the introduction, has a fair amount of informative material in it as well as the conformance clause. So, the informative material has been updated somewhat. Actually, the gentleman to my left did a lot of that. But I would imagine that in the final version of this document, you know, some of this will still have to change. But it's overview related information and I don't think it's, you know, especially germane to today's purposes.

But, there is a conformance clause section in here, and the conformance clause section deals with, actually, how to use the requirement and how to basically understand the requirements in here and the language, and figure out, essentially, conformance, what conformance means, in terms of the equipment in question. And the conformance clause, Section 1.5, has been changed with some information from the Next Iteration. And it talks a little bit about new language, clarified language for how to tell what a requirement is, you know, what "should" means, what "shall" means, things of that sort. We went through and made a couple global changes. The 2005 VVSG made use of the word "vendor." We've changed that to "manufacturer." We have not gone through and shown that in every particular case, because it would just be too much, but vendor is now sort of obsolete, and in favor of manufacturer. Also, voting system testing lab, accredited test lab, testing lab, testing laboratory, all these terms were used in the

2005, and we've tried to simplify that by using VSTL, which is voting system test lab, which is the term that the EAC uses in their testing program.

So, we did, you know, numerous things like that and fixed formatting and things like that. Not all of those changes you see marked there. And, we included an implementation statement from the Next Iteration that basically describes the sorts of documentation and information that a vendor must provide and clarifies, you know, basically, what the components of the voting system are. I don't think you'll have too much difficulty with that material, but it's worth taking a look at.

Now, Section 2 in Volume I begins the functional requirements, and the remainder of the chapters deal with product requirements. And going through here, I don't think that you had any specific comments in Section 2, but I'll buzz through it. There are numerous types of requirements in here. There's accuracy, security. There's some high-level usability. But paging through, getting to any material that's changed in Section 2, I'm looking at Section 2.1.5.2, and that's one thing I will point out. This is a change -- a series of changes that relate back to decisions made by the EAC on requests for interpretation that were submitted to the EAC by vendors or test labs. And the big change, here, in this section, this section had in its original form some language that we thought wasn't consistent and it didn't really -- well, let me just get into the big change. The change, here, is that it concerns operating system security in voting systems. And, essentially, a change was made that says a vendor can use any particular operating system

security configuration they want to use, but the test labs now have to take a look at a checklist program that had its origins at NIST. And these checklists are, basically, checklists of operating system security configurations. So, there's, you know, a checklist for Microsoft, Windows XP Embedded, you know, a number of different operating systems. So, a test lab has to take one of those, and basically, compare what the vendor did against the checklist. And, in a sense, the checklist is considered to be modern, due diligence practices -- best practices for how operating system security can be configured.

Yes, Barbara?

DR. SIMONS:

Barbara Simons. Does that mean that the testing lab can look at the COTS, the commercial -- the operating systems and so on? Can they examine it?

MR. WACK:

COTS? Well, actually, the definition for COTS has been expanded a little bit, and I personally don't know if the source code to, let's say, XP is available to the lab. But the definition for it has been expanded somewhat. And in a specific case for example, when you -- like with Embedded XP for example, it can run on different hardware platforms, so there are a number of different configuration files that have to be created in order to tailor it to a specific hardware environment. Those configuration files and any other sorts of files that are used to set up the operating system certainly do have to be inspected by the test labs.

DR. SIMONS:

So, Windows CE, sort of enroll your own operating system,...

MR. WACK:

Right.

DR. SIMONS:

...that would be looked at?

MR. WACK:

In Windows CE, certainly the configuration for how it can be created, what services, how it's to be installed on a particular hardware platform would be looked at by the test labs.

DR. SIMONS:

But, not the software itself?

MR. WACK:

I don't think the software itself. The test labs -- also, I think -- actually, no, I'm thinking about some requirements in the Next Iteration, forget it, but no -- at this particular point, no.

MR. CUNNINGHAM:

I would like to reiterate we'd like to get through a section.

DR. SIMONS:

Oh, I'm sorry.

MR. CUNNINGHAM:

Write your questions down and then we'll deal with questions on the section, and we'll move to the next section. Okay?

DR. SIMONS:

Sorry.

MR. CUNNINGHAM:

Otherwise, we'll be here a really long time.

MR. WACK:

Okay, well, getting back to this material here, so, the change made here is interesting, you know. It's basically that a vendor -- I'm sorry, a lab is going to look at the checklist program, hopefully find a checklist in there that applies to the operating system used by the voting system, and use that as, you know, current practices. So, that's a good change.

MR. MASTERSON:

Let me, really briefly, state the importance to the election officials in the room of this change and the effect we've seen. This is based on an RFI that we issued. The importance here is that, one, the vendors are showing us how -- or the manufacturers are showing us how their operating system is configured for security. We're certifying it in that state, and then that needs to be made clear in documentation to the election officials, so that the certified system, in the scope of certification that we issue, will clearly identify the configuration of that operating system, so that you all know how your operating system is to be configured to meet the checklist for, you know, the security. So, that's how it sort of played out in the field for you all. It's part of the certification, now that it has to meet this checklist and meet certain operating system configuration protocols.

So, that's sort of how that applies to you all, and we thought it was a really important step and we're glad to see it now in this documentation, as well.

MR. WACK:

Now, let me point out something. We needed a way to, sort of, differentiate the changes that are the result of decisions on RFIs, so this text has been put in italics, and there's a footnote wherever a change has been made. And the footnote I have up on the screen, right now, basically tells you which decision on an RFI - I guess which RFI was involved here with a link to that RFI.

Okay, going through the rest of Chapter 2, I'm paging through, there were a couple of other small changes that I'm just going to skip past in the interest of time. Another change was made in Section 2.3.1.3 DRE system requirements. This had to do with clarifying what to do about a system that starts up with non-zero totals on counters or residual ballots that could be counted as part of the election totals. And here I believe the language basically says that if that were to happen during testing that system would fail testing. And if it were to happen in practice, the system, basically, should take itself out of service, should present a warning, some sort of clear message to an election official of the error along with any corrective action that needs to be taken.

Okay, and anything else in Chapter 2? I'm looking at Section 2.4.3, another change, a clarification due to another EAC RFI. Actually, in the interest of time, again I won't go through this because it's relatively minor.

Okay, some changes have been made in Section 2.4.4 for electronic records. And these -- Matt suggested I start reading a couple sentences from the beginning just to show you where I am. Section 2.4.4, electronic records. "Electronic reports for voting systems are used to support audits." Getting down into the actual

section, we're talking about "requirements that apply to electronic reports produced by voting systems for exchange of information between the devices, supportive auditing procedures or reporting of final results." So, in here basically there are requirements that say that voting systems shall digitally sign electronic reports using FIPS approved algorithms with a security strength of at least 112 bytes. What that basically means -- FIPS is a federal information processing standard from NIST. And in the area of cryptography NIST has a number of FIPS, in other words standards, for how cryptography should be implemented, which particular algorithms are permissible to use. And then, this gets back to some things I said earlier before lunch, that the idea now is that manufacturers will include a specific software module in their systems that will hold cryptographic keys, and will be capable of digitally signing electronic records. And that will require manufacturers to set up some minimal key structure, perhaps publish a list of keys, you know, a key associated with each voting device or it could be possible to associate the same key with each voting device. These details would have to be worked out still. But the idea is that you're going to be able to get a record from the voting device, be able as an election official at some point, I would think, to be able to verify the signature on that record, know that it indeed did come from an approved voting device, and possibly a specific voting device. And, you know, the same applies to loading of software on voting systems as well, but I'll wait until we get to that particular material.

Okay, so these remaining requirements were ported from the Next Iteration and they basically detail, you know, the types of

electronic reports and the specific fields that need to be involved in the fact that they need to be digitally signed. We're still looking at Section 2.4. There were no comments on that yet.

The subcommittee didn't have anything until I believe Volume I, Section 4.

MR. MASTERSON:

Except for the accessibility.

MR. WACK:

Except for the accessibility stuff.

MR. MASTERSON:

Which we're at now.

MR. WACK:

Okay, so we're through Section 2. We're now in Section 3.

MR. CUNNINGHAM:

Are there any questions on anything in Section 2? Mr. Lewis.

MR. LEWIS:

John and group, I guess, where we ran into a problem once or twice was where a system was tested to its design limits and specifications, and yet did not then go far enough in testing to determine whether or not that warning and that standard that triggers its shutdown and do all the things that it's supposed to do, capture the votes, and what have you, because the manufacturers will say that this system is to be used only in a certain way, only up to a certain limit and then we only test to that limit, if that's what they tell us. It was in the past, I'm not sure that it is now. So, we may never reach the situation where we force the error to find out

whether or not the error actually does what it's supposed to, the error message and the trapping routine does what it's supposed to do. Is that covered now in this situation?

MR. MASTERSON:

I'll let John answer whether that's covered now in that situation, but I can tell you that's being covered now in our testing even now, regardless of this revision. We, as part of our testing have the manufacturers issue a system limitations document to us, which basically says exactly what you're saying, "This system is designed to handle this." We then push those limits in various ways, not just one at a time but three or four at the same time to see if it's exceeding. In addition to that though, many will tell you that, you know, it's not good enough just to test a few to determine that that meets the many. There's also code review that goes on to check error handling and what not, and so, there's several different ways our labs are handling that. And that's documented in the reports, as well.

MR. LEWIS:

I don't have anything further than that. That's all I needed.

MR. CUNNINGHAM:

Wendy. State your name.

MS. NOREN:

This is a little bit of a follow-up on yours, on the same kinds of errors. You say they do certain things and then provide corrective action. One of the problems we have, the corrective action, is always, "Call the manufacturer," basically, you know. And this kind of goes to our usability issues later on on some of these

things, and I don't know if there's some kind of criteria as to, you know, we need actions to be able to be correctable within a polling place by poll workers. And I think that's all I kind of want to say; that the corrective action on these kinds of things needs to be designed in such a way that it can easily be handled by poll workers.

MR. MASTERSON:

I know that was more of a statement, but I kind of have a counter question. Would you say that's something that's covered in the resolution regarding usability for poll workers? And I think it's for poll workers and election officials. Or would you -- are you suggesting that we need specifics, as far as error handling, so that when an error message comes up there needs to be better usability for handling that error message?

MS. NOREN:

Well, I certainly think so. You know everybody gets frustrated, whether it's, you know, voting systems or, you know, Microsoft. Suddenly you get these weird messages of, "Contact the system tech," you know. So, I just think those usability -- and I just wrote that down just because we had not specifically discussed it when we -- they're kind of separated actions. We've got usability section over in a whole other area, but there are some of these things such as that that they become, you know -- how those poll workers interact with the device is going to be really important. And if the corrective action is simply you call, you know, the manufacturer or something like that, that's not going to do us a lot of good.

MR. WACK:

May I just interject quickly, that again the usability requirements, you know, that are in Section 3, per se, really are more for the voter. And I think you do have a valid point. More and more as time has gone by, I've come to the realization that a lot of the usability material should be oriented towards election officials and poll workers, you know, the usability of warnings and all sorts of things. So certainly, I think that's being better understood as time goes by.

Okay, I'm in Section 3, and a question from Jim.

MR. DICKSON:

Jim Dickson. John, it's been understood, but do these standards implement what Wendy wants?

MR. WACK:

Well, let me give you -- okay, let me just, you know, talk offhand. I don't really think so. I think there's certainly been a start on it, and I think that improvements are being made along the way. I think that, ultimately, perhaps there should be usability studies, you know, real good formal studies involving election officials and equipment and how things are used, you know, that would take into account audits as well and, you know, would result in better requirements for, you know, election reports and, you know, making sure things are suitable for good, accurate, fast, convenient audits, warning messages and, you know, operating voting equipment.

In Section 3, there is a section on usability for poll workers, and I think that's definitely a very good start. And I think the material, you know, is being improved bit by bit. Going through all

these studies would take some time, would be pretty expensive. I think at some particular point it would be worth it.

MS. ROSENTHAL:

This is Lynn Rosenthal. Let me add to a little bit of what John said. Before we provide or include certain requirements regarding usability, and this is where I'm going to echo John, there needs to be more research done with the community, with usability experts, et cetera, so that we know what requirements that we can actually put in there that would be achievable and would make sense. That research has started. NIST is doing some of it. I know the usability community is engaged. I'm not saying that there shouldn't be any more. It's always, you know, better to have more and to do more. But it would be an injustice to put in the wrong types of information and put in requirements that we find out are not appropriate, thus the work.

We, also at NIST, have developed many, what I'm going to call, guidelines or best practice documents related to plain language instructions and documentation, the use of color, the use of shapes, et cetera. Again, those are best practice types of documents from which, as we go on, possibly some of that could be formulated into stronger requirements, but at this time it may be premature.

MR. WACK:

Okay, thank you, any other? Then I'll go into Section 3, and I'm trying to figure out how best to do this to serve your needs. Jim Dickson had a number of items in Section 3, which I can stop at, as we go through the material and perhaps we could address those

quickly, as we go through this section, if that would be acceptable. Does that sound like a good plan? Yes, okay.

Okay, so iterating upon what I said earlier before the break, this material was brand new to the 2005 VVSG. So the material that we took from the Next Iteration and, you know, basically copied on top of the existing Chapter 3 was, basically, what's been described by the authors as a maintenance level upgrade and update. No significantly new material except for two items; poll worker usability, and then the other item which was kind of basically performance benchmarks and testing to those performance benchmarks. So that material was not included since it involved a different way of testing that research hadn't been completed for.

So basically, I'll go through this quickly and just go through some of the requirements which have been updated to include new terms that we've added to the glossary, slightly changed definitions for some of the equipment such as DRE or optical scanner. And the way we formatted this, pretty much, is that it made better sense to include a revised section. For example, when I get down to -- let me get down to a specific section, like general usability for example. It's Section 3.2.1, general usability. It made sense to, basically, include the new ported material, and then afterwards, include the removed material as opposed to going through the paragraphs and selectively deleting words and adding new words, and so on and so forth. The reason I bring it up, though, is that if you take the time to look at the new material and compare it to the old material you'll see in many cases that it's very similar, it's just that the new material is more precise and clarifies certain things.

So, I don't feel that I need to go through this in detail, but I do want to point out since this is something that Jim has an issue with...

MR. MASTERSON:

It's actually the Committee.

MR. WACK:

The Committee, I'm sorry. Sorry to single you out, Jim. There are, essentially, well, three types of requirements in this chapter; privacy, usability, accessibility, but primarily usability and accessibility. But the way in which the chapter is formatted, essentially, many of the usability requirements, in fact all the usability requirements apply to accessible voting systems as well. So, in a sense all of these requirements apply to accessible voting systems, but the first half of this section really applies to, you know, basically usability requirements per se, but apply to all voting systems, in general. I'm not sure I said that very well, but we'll come back to this when we get to one of the Committee's issues.

Okay, why don't we go to with that Section 3.3.1, which I believe will -- let's see, that might be in the accessibility section. Okay, 3.3.1 and there is a requirement in here, requirement "e." "If the accessible voting system generates a paper record (or some other durable, human-readable record) for the purposes of allowing voters to verify their votes, then the system shall provide a means to ensure that the verification record is accessible to all voters with disabilities, as identified in 3.3 accessibility requirements." And I think the issue that I have before me is "the standard shall specify that an accessible voting system shall enable the voter to verify a

paper ballot in the same style and manner as the ballot was generated. Large text size, audio, et cetera.”

Is there any discussion on that, anything that I can clarify?

COMMISSIONER HILLMAN:

3.3.1, that's one of the items.

MR. WACK:

3.3.1, looking at the paper that was handed out...

MR. LEWIS:

What page is that one?

MR. WACK:

What page is that? I believe it's...

COMMISSIONER HILLMAN:

Is that page 71, 72?

MR. WACK:

In the standard, it is page 78 -- 77.

COMMISSIONER HILLMAN:

No, 73.

MR. MASTERSON:

73.

COMMISSIONER HILLMAN:

Thank you, page 73. In your little handout, it is page 73.

MR. CUNNINGHAM:

I'm sorry you're waiting on me, aren't you?

MR. MASTERSON:

Yes, we wanted to see, does the Committee want to discuss the recommendation?

MR. CUNNINGHAM:

Yes, I think that Jim -- let me preface this by saying that the Committee deferred to Mr. Dickson and colleagues to advise us on some of the accessibility issues, so Jim, I'm going to let you talk about this first change that the Committee has proposed, which is actually something you proposed to us.

MR. DICKSON:

Yes, what we're essentially saying here is that if the ballot of record is a piece of paper and the voter used a device that allowed the voter to see the ballot with large print, that when it comes to verifying the ballot, that the voter be able to verify the piece of paper with seeing large print. The kind of people that we're -- what exists now, particularly with VVPATs, is the voter using large print. This is, largely, but not exclusively, aimed at senior citizens who are now using large print. Under the current VVPAT systems, the senior votes using large print but then has to listen to the verification with the earphone. For a lot of seniors that's difficult. Often with sight loss comes hearing loss. And, for all of these recommendations there is technology in use in other sectors of our nation's life that could be incorporated into the equipment.

Are there questions about that?

MR. CUNNINGHAM:

Would you like me to read the recommendation? Does everybody got it in front of them? The current verbiage is, "The standard shall specify that an accessible voting system shall enable the voter to verify a paper ballot in the same style and manner the ballot was generated."

COMMISSIONER HILLMAN:

That's just the explanation.

MR. CUNNINGHAM:

Okay, I'm sorry, the recommended change to Section 3.3.1 is that, "If the system uses or generates a paper record, or some other durable, human-readable record that can be the official ballot or determinative vote record, then the system shall allow the voter to verify the paper record using the same access features as were used to generate the ballot. Voting equipment or systems currently in use are not subject to these accessibility requirements. As of January 1st, 2013, systems submitted for complete end to end testing shall meet this requirement."

And -- is there a question? Okay, Ron.

MR. GARDNER:

Thank you. I have two issues, but they're related only because they're in the same section. One is the January of 2013, which I'll talk about in just a second. The first one is responding to what Jim Dickson said. And specifically, what we're hoping for, and I wasn't on his Committee so I'm sort of separate, but speaking in my position from the Access Board, we want to make sure that if somebody has voted using whatever means, large print, audio or non-visual access, or for other disabilities different accessible options, that they're able to verify that vote using the same option. And one suggestion that I have is that we use what's becoming to be a more universally used phrase, and that's "non-visual access," because, oftentimes, goodwill people who intend usability will say "large print", thinking that that's going to cover it, or use "audible", thinking that that's going to cover it, when really there is a

contingency of people with disabilities who use non-visual access. And so, that phrase is one that I'm hoping to get incorporated into these requirements, "non-visual access" or "access through non-visual means," however you want to use it, but "non-visual access." And so, if a person used non-visual access to cast a vote, non-visual access would be used to verify the vote. And I think, to that extent then, it is completely consistent with Jim Dickson's comment. That's my first item.

The next item, of course, goes to the timing. Do you want me to address that now, Mr. Chair? Whatever you want.

MR. CUNNINGHAM:

Yes. Yes, go ahead.

MR. GARDNER:

The timing issue, as I understand it, is putting the effective date to 2013. My recommendation, hope, suggestion, pipedream, call it whatever you will, is that we move that to 2011, at a minimum, for obvious reasons. You know, I represent a contingency of voters, not voting systems, not state officials, certainly not manufacturers. And so, from my perspective, 2011 seems to be more reasonable.

MR. CUNNINGHAM:

Okay. Secretary Nelson, you had a question?

SECRETARY NELSON:

A question, and for whoever can answer it. To me, this seems like a fairly significant change, and I'm just wondering, a change of this magnitude, is this better off something going into

Version 4.0, or is it consistent with some of the other kind of changes that are going into this 3.1?

MR. CUNNINGHAM:

Well...

MR. GARDNER:

You weren't asking me, but as I looked at that it seems like it's a consistent change to me, because we are making the actual casting of the vote through non-visual access and other accessible means. And I think verifying is the same thing. I mean, if we're going to use verification through paper ballots, then, to me, it's part of the same process.

MR. CUNNINGHAM:

Ron, let me ask you this question. This is Keith Cunningham. How does -- I guess, I'm under the impression that by the way this is worded that it says that you "shall be able to use the same access features as were used to generate the ballot" is a broader statement that covers a wider range of disability, and it seems to me using the words "non-visual" restricts that down. I mean, what am I not understanding there? Or...

MR. GARDNER:

No, you understand it perfectly. The comment on "non-visual access" is when we're using accessible means, and we identify large print or through audible means, in that list we need to include "non-visual access." I'm not sure that this paragraph is the place to include it, because it's merely referring to large print, audio, et cetera.

MR. CUNNINGHAM:

Yes, it could be anything.

MR. GARDNER:

It could be anything.

MR. CUNNINGHAM:

Yes.

MR. GARDNER:

Including all of them, but back in wherever it is, 3.3. something,, where the list of available accessible means is listed is where I really propose putting in the “non-visual access.” That’s sort of the phrase that makes sure that blind people really can do it.

MR. CUNNINGHAM:

Do you know where that is that he’s referring to, John?

MR. WACK:

Offhand, no, but I believe to change the terminology we’d need to go back and look at the chapter, because I think that sort of language is sort of, you know, in various places.

MR. CUNNINGHAM:

Phil?

MR. JENKINS:

Phil Jenkins, Mr. Cunningham. It’s in the top of this first section here. The first paragraph includes “large text size, audio, et cetera.”

MR. CUNNINGHAM:

Where are you at?

MR. JENKINS:

3.3.1 - e, on the subcommittee...

MR. CUNNINGHAM:

Oh, you're on that sheet. Where at, the first paragraph?

MS. ROSENTHAL:

That was the original language, right?

COMMISSIONER HILLMAN:

Right, but that's not language from the standard.

MR. CUNNINGHAM:

Yes, that's not language from the standard. That's just kind of synopsis of what the subject of 3.3.1 - e is.

MR. JENKINS:

So, the recommended change is the part in italics?

COMMISSIONER HILLMAN:

Yes.

MR. CUNNINGHAM:

Yes.

MR. JENKINS:

I think Mr. Gardner's concern is just in this submission, not in the actual document.

MR. GARDNER:

Even though I'm, apparently, on the TGDC, it's not met since I've been on it, so I didn't have the opportunity then. I wish it had been done, then, because it's what I'm considering universal language.

COMMISSIONER HILLMAN:

But, if I hear John Wack correctly, there, probably, is the use of the terms large print or audio in other parts of the document and they would have to search to see if using "non-visual access" is interchangeable in there.

MR. WACK:

Yes, what I am reacting to is what you said earlier about well-meaning people sometimes use terms like large print, and so on and so forth, when there are other phrases that are more universal and potentially don't restrict implementations in ways we don't want them to be restricted. So, I would recommend we just go back and look at the language. And I would imagine in other places, too, we'd need to make some adjustments accordingly.

MR. CUNNINGHAM:

Ron, would you like to make a motion to that regard that that be done? I think that's probably our best advice at this point.

MR. GARDNER:

The answer is yes. I move that we include -- is that what you're suggesting?

MR. CUNNINGHAM:

Yes, sir.

MR. GARDNER:

I move that we -- who am I responding to?

MR. CUNNINGHAM:

Keith Cunningham, I'm sorry.

MR. GARDNER:

Oh, Keith. Yes, and I move that we include the language "non-visual access" as appropriate when defining alternative means for voting, casting ballots.

MR. CUNNINGHAM:

Is there a second to that motion?

MR. JENKINS:

I second the motion.

MR. CUNNINGHAM:

Okay, Mr. Gardner.

MR. JENKINS:

And I did a search and found two occurrences, if you'd like
to...

MR. CUNNINGHAM:

First state your name for the record from the second.

MR. JENKINS:

Phil Jenkins seconded the motion.

MR. CUNNINGHAM:

Phil Jenkins, okay, very good. And what was the second
point you made there, Mr. Jenkins, about two...

MR. JENKINS:

With my trusty technology, I searched the document and I
already found two occurrences, Section 3.2.3.2 and the appendix
definition (a)(1) where it defines the term.

MR. CUNNINGHAM:

We've got a motion and a second. And, under discussion,
could I suggest, or would it be too much to ask that, perhaps, you
assist in some way Mr. Wack and NIST in identifying those areas,
so just, we're all -- I'm not saying you've got to identify them all, but
I think the more eyes we've got on it...

MR. JENKINS:

Yes.

MR. CUNNINGHAM:

...the more likely we are to catch all the places.

MS. ROSENTHAL:

Since the document is electronic, we're just going to do a search. And it's probably what you're going to do.

MR. CUNNINGHAM:

Well, I guess, I would still like there to be some communication that indicates everybody is satisfied with what's found.

MR. GARDNER:

I think it's a good idea, and I will commit to work with Phil and whoever from this group on that. I think it's an important and appropriate addition.

MR. MASTERSON:

Can I make a suggestion?

MR. CUNNINGHAM:

Yes, sir.

MR. MASTERSON:

Perhaps...

MR. CUNNINGHAM:

State your name.

MR. MASTERSON:

I'm sorry, Matt Masterson from the EAC. Perhaps both members of the Access Board would be willing to provide a list of the areas in the -- I mean, I wrote down what you said -- but if you find additional or just provide that to us, and we'll provide that to NIST as covering those areas. And I don't know, does the motion even need to be voted on?

COMMISSIONER HILLMAN:

Yes.

MR. MASTERSON:

Okay.

COMMISSIONER HILLMAN:

It's a recommendation coming from the Board. If the Board approves it, then it's a formal recommendation coming to EAC.

MR. CUNNINGHAM:

Mr. Lewis?

MR. LEWIS:

In the spirit of whether or not well-meaning and well-intention objectives get to be where they punish you, no good deed ever goes unpunished, is adding this language -- I'm not an attorney, I'm not a lawyer, I don't know -- is adding this language going to subject the EAC, and us, and the manufacturers, all to a standard that we have not dotted the last "i" down to solving every visual problem? And so, I'm not against this. I, actually, kind of, think it sounds to me is one that we ought to do, but I want to make sure that we're not also opening up Pandora's Box.

MR. CUNNINGHAM:

Ron?

MR. GARDNER:

Thank you, Ron Gardner. I am a lawyer, and I am an attorney. And what other was on your list, Doug? And, I am a blind person.

MR. LEWIS:

Now I really don't trust you.

[Laughter]

MR. GARDNER:

And, I am a well-meaning person. There is no hidden agenda in my offer, or in my proffer, or in my promulgation, I think, is the word. There is no ill-motive. It's not opening up a Pandora's Box. It's a phrase that simply says that a person who is blind, as the world sees that, in other words blink, black, blind, still has the opportunity to cast an independent vote. Oftentimes, when we think we're helping the blind we're increasing the size, we're talking about the shades and the contrasts, we're talking about throwing a little audible in there, but it's in combination with the large print. "Non-visual access" simply says that you can be blink, blind, however you want to say it, and still cast the ballot. And that's a phrase that is used in other arenas. I believe it's my true intention - - no, I know it's my true intention, but I believe that there are no other dots that are undotted or "t's" that are not crossed, Doug -- Mr. Lewis, by adding that phrase.

MR. CUNNINGHAM:

Could we get the motion read back to us? Does anybody over there got that for us?

MS. LEEK:

We have a quick question. We have the language of the motion that Ron is aiming to include. We just want to be sure as to whether or not you want this to be a part of the first or...

OMMISSIONER HILLMAN:

No, it's separate.

MS. LEEK:

Separate and apart.

COMMISSIONER HILLMAN:

It's a separate motion.

MR. CUNNINGHAM:

Yes, we want this to be a motion by this Advisory Board.

MS. LEEK:

Separate and apart, then we have that.

MR. CUNNINGHAM:

Yes.

MS. LEEK:

We have it as, include language, "non-visual access, as appropriate, when defining alternative means of voting or casting a ballot."

COMMISSIONER HILLMAN:

Is that -- let's ask Mr. Gardner.

MR. GARDNER:

Yes.

COMMISSIONER HILLMAN:

Yes.

MR. GARDNER:

Yes.

MR. CUNNINGHAM:

Is that clear to you guys? Everybody understands the motion?

MR. MASTERSON:

Yes.

MR. CUNNINGHAM:

All right, very good. We have a motion and a second. Is there any further discussion on that motion? In that case, all in favor signify by saying aye. Those opposed, same sign.

[The motion carried unanimously.]

MR. CUNNINGHAM:

Now Ron did you want -- you also made a statement about the date. Do you want to continue some discussion on that?

MR. GARDNER:

Yes, and I think, because, even blind guys can see reality.

[Laughter]

MR. GARDNER:

You know, it's funny now, but tonight at 7:30 it won't be. I would like to move that we change the language, what is it, January 1 of 2013, change the two numerals 13 to 11. That's my motion.

MR. CUNNINGHAM:

Is there a second to that motion?

MS. McLIN:

Second, Rhine McLin.

MR. CUNNINGHAM:

Okay, discussion? Wendy Noren.

MS. NOREN:

I just have a question, because I was not at our Committee meeting yesterday. This brings to point, kind of, the entire concept of this version that has been kind of a back and forth. Originally, we thought the goal would be try not to have hardware changes to these systems, because what you wanted to do, what the EAC's

goal was to get some of the improvements of the Next Iteration into the current standards, and try and do it so this version could be rolled out with the equipment we currently own. I understand the reason to try and push this issue, because I think, we also, as we had our meetings, recognized this Version 3.1 is going to have to last us for awhile, maybe five years, maybe ten years, by the time you get testing, by the time you get the Next Iteration and those kinds of things. So, that's a very long statement to, kind of, our background, but I think is that how you arrived on the thing? We don't want to do -- we still want to try and keep that concept of putting the hardware changes to a minimum, but we want to keep some pressure on the manufacturers to try and get them within this current generation of equipment for which we're amending these standards, to get some of these better disability, accessibility issues in?

MR. CUNNINGHAM:

Secretary Cortés, did you have a statement on that?

SECRETARY CORTES:

Pedro Cortés. My question, I believe, follows-up on Ms. Noren's comments and/or question there, and that is, I don't have enough technical information to vote on this because I don't know what it entails to accelerate that date. I'm not sure that the technology exists, although I did hear Mr. Dickson make reference to the fact that similar technology is used in other businesses, in other areas. I just don't have enough, and maybe our friends from NIST can give us more. I'm trying to think how realistic it is to move

the date forward to 2011, and try to understand the implication that that has, not only on the manufacturers, but also the states.

MR. CUNNINGHAM:

Well, I will respond to that, this is Keith Cunningham, and Matt you can too, I suppose. But there was a tremendous amount of discussion over that last night, here in this room, following our meeting, and I think, as Wendy points out, I think there was a very, very genuine and conscious effort to understand and accommodate a continued push for these types of access matters. At the same time, going to what you said, I think there was a very deep concern that while those technologies may be in use in certain arenas, they're not in the foreseeable future, at least immediate future, if you will, in the elections technology business. And we're not totally sure of costs and we're not totally sure, correct me if I'm wrong, members of the Committee, we're not totally sure that if that date gets moved down, what it's going to do to current hardware, what it's going to do to development of systems. So, I think the Committee felt that it was acknowledging and advocating for the matter, at the same time allowing enough breathing room that current systems could continue to be used without much impact and that -- I think, it's important here to understand that one part of this line, "that as of January 2013 systems submitted for complete end to end testing shall meet this requirement." So, that was an intentional set of words, so that updates and so forth were not affected. Matt if I'm wrong, please correct me.

MR. MASTERSON:

You got it.

MR. CUNNINGHAM:

Help me out or...

MR. MASTERSON:

The only information I was going to add was that systems currently in with us, many of them do not currently have this technology, and I think that's a statement that everyone has acknowledged, but that, as Mr. Dickson stated, this technology exists. But the systems that are in with us, right now, do not currently possess that technology.

MR. CUNNINGHAM:

Sarah Ball Johnson.

MS. JOHNSON:

I have a question, and I'm not on the Committee, with the date. This is a procedural question that doesn't deal with the issue of whether they need this technology or not, but when the EAC adopted the '05 standards, they put a phase-in that it was, what, I can't remember -- there was a time process. We all public commented. Two years? There was a two-year, you know, process before they became the only standards that were out there for testing purposes. Am I paraphrasing that right?

MR. MASTERSON:

Yes, the manufacturers had a two-year window where they could submit to either the 2002 or the 2005.

MS. JOHNSON:

Okay. So, I'm just wondering is, you know, we're doing the public comment, our part, this Board's part of the public comment on this round. It will go back to the EAC, and you all will review it,

probably go back to NIST and do whatever you all do on that. Glance at our comments, whatever you do, and then you're going to work that process. And I just know, from the 2005 iteration, which was just simply bringing the 2002, kind of, up to HAVA, sort of, standards, as best we could, and 3.1 is filling in those gaps, I just wonder, if 2011 is enough time, considering we've got the phase-in, you all have to do this and it may come back for public comment. That's the only wonder I have about why -- that I might need to be 2013, because you've got to take into account, that whole other part of the process.

MR. CUNNINGHAM:

Mr. Dickson?

MR. DICKSON:

First, I want to, just for information for the Board, this date affects some other changes that the Committee has recommended. And I just wanted folks to know about that. You know, this is a balancing act. Part of -- to answer Wendy's question about, sort of, what is part of the motive, what are you trying to make happen behind this, in the disability community, conversations with manufacturers they -- about accessibility, they say consistently, and it's all of them, that they don't start to do research and development until the EAC has finalized, not just the standards, but the testing suites. So, it is very -- and some of these things can be done -- could be done quickly. Some of the things could apply to some updates if the manufacturers had done the work, so that they could be easily applied. So, this is, in part, a signal and a pinprick for them to get going on this.

We understand that -- first, I want to say something about myself, you know. I had some role in the crafting of HAVA, and I think, all in all, it's a great piece of legislation. I did not understand how important it is to allow time for implementation. I don't think the entire civil rights or disability community really understood that. But, we did put thought -- I was -- we discussed this last night. I was up until midnight last night talking to people around the country in the disability world, saying, you know, "What do you think about these times?" I don't think that this will -- we don't want it to, and I don't think this jeopardizes -- this is not going to force any equipment that is now in use, and that as to be upgraded, to fail. It does allow -- it does prod the manufacturer and it -- so, I think for that reason it's really important.

MR. CUNNINGHAM:

Mr. Thomas?

CHAIR THOMAS:

I concur with Jim. And I think that this is an exception in the sense that it does deviate a little bit from the design that this Version 3.I was intended. I don't think you would ever be 2013 under Version 4. So, Version 4, which was designed to be more of a stimulus to manufacturers to make some significant changes, I can't conceive of that having been in any way in effect, in terms of them having a specific date that they had to meet before 2013. So, I think, in that regard, we're in great shape with 2013, and there is a prod for the manufacturers to move forward and make the kind of changes that are absolutely necessary. I think it's a nice compromise that Mr. Dickson brought forward.

MR. CUNNINGHAM:

Mr. Jenkins?

MR. JENKINS:

Thank you, Mr. Cunningham, Phil Jenkins with the Access Board. I want to make two points here, address the issue about whether this is within the scope of this refresh, is it just a clarification; and, "B" is there existing technology?

So, for "A," in HAVA, Section 301 reads in part, "Accessibility for individuals with disabilities. The voting system shall," and paragraph (a) says, "be accessible to individuals with disabilities, including non-visual accessibility for the blind and visually impaired, in any manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters." So, my comment is that the requirement exists already. Paragraph "e" that we're adding to this refresh is clarifying the voter -- the paper record verification part of the system. If the technology exists for a voter to submit a paper ballot and vote, then the technology, by reason of elimination, exists to verify that the paper exists. So, the technology exists and this is a clarification only to what the system includes, so that NIST and the testing centers can say, "It's not only just the voting part, but also the verification of the ballot," and it includes paper ballots, or whatever means there are. So, I believe this is clearly within the purview of this update and the technology exists. By waiting until 2013, we miss the 2012 election, and the opportunity to clarify to all of us that we -- that HAVA meant this.

MR. CUNNINGHAM:

Mr. Lewis.

MR. LEWIS:

With all due respect to the comments that I've heard at this point, and I understand all of us are impatient, every last one of us is impatient. I'm going to tell you elections officials have gone to the point of being so impatient to have standards and to have testing and to have it all accelerated. Advocacy groups, the security side, the software side, and the disability side, and the usability side, and right on down the line, all of us are anxious to have what we want and we want it now. Unfortunately, the real world of things in this particular way of going about trying to change voting systems and to make voting better for Americans, takes more time, more thought, more planning, more preparation than most folks truly know or understand. Having administered the program for NASED for more than ten years, I can tell you the frustrations of waiting for things to occur, because, in some cases, while some enterprising person might think they have an answer, once you actually get into testing, it actually turns out not to be an answer. While you may have a desire to solve a problem, not always do your first occurrences or solutions actually solve that problem.

In trying to artificially set very quick dates to try to comply with this and force this by 2012, quite frankly, isn't going to happen by 2012, no matter what, anyway. It isn't going to be there, because if the standards were issued tomorrow by the EAC, it's very likely it's going to be three to four years before a manufacturer is able to actually design, test and bring to fore a process that will

do that. And so, this is one of those where what you want to do is telegraphed far enough in advance to people, "Here's what's coming. You've got to be prepared. You've got to do this. You might as well start working on it now. And you've got three to four years to get there." But, trying to do this in a hurry-up fashion does not work. It won't work. It's the kind of thing that we kept trying to tell Congress when they were doing HAVA, "You are forcing, artificially, some things that are just not going to work very well at all." And we saw that.

And so, I think Jim, wisely, in listening to the discussion of the Committee -- and what the members here have to know is that the Committee thrashed through this, not in one meeting, but in two meetings, and in three meetings, and in four meetings, and we had two meetings yesterday that none of the rest of these folks got to sit through, both early morning and late evening. And so, this was thrashed and hashed and discussed and cussed and tried to figure out where we could get to the point that there is agreement. And I would ask the indulgence and the forbearance of folks to allow us, at least, to proceed with what seemed to be a rational agreement among all, that this is a date that we can work toward and accomplish.

MR. CUNNINGHAM:

Very well stated. Mr. Gardner?

MR. GARDNER:

It was very well stated. I've enjoyed a lot of the comments. Quite frankly, this got a lot more time than I expected that it would, and it's been educational. I would -- I made the motion but, you

know, if it fails, it fails. I just called for the question. Let's vote and move on. I'm ready to vote.

MR. CUNNINGHAM:

And everybody knows it's in the other recommendation, too, so...

MR. GARDNER:

I'm sorry?

MR. CUNNINGHAM:

I said the next recommendation that we're going to deal with has the same date in it, just so we know.

All right, we have a motion...

MR. GARDNER:

Dare I say that hindsight is 20/20, even for a blind person.

MR. CUNNINGHAM:

I see your point. Can we -- I guess I can paraphrase. Can we repeat the motion? Can we do that? I mean, I think to paraphrase it without...

MR. GARDNER:

My motion is that we change 13 to 11, as it refers to January 1.

MR. CUNNINGHAM:

Very good, and there is a second, and the question has been called for. We will vote. Those in favor signify by -- to vote yes means you're going to change the date to 11. To vote no means you're going to keep it at 13.

Those in favor of the motion signify by saying aye. Those opposed same sign. Should we do a show of hands or a voice

vote? Okay, those in favor raise your hand. Those opposed raise your hand. All right, I believe the nays carry it.

[The motion was defeated.]

MR. GARDNER:

Thank you, Mr. Chairman, I'm ready to move on.

MR. CUNNINGHAM:

Thank you. I think that was a good discussion, though, and I thank you for making it a point. And I certainly appreciate the -- I've known Jim Dickson now for a few years now, and he is a tenacious son of a gun, and I appreciate that he carries that mantle as firmly and as strongly as he does, and likewise with yourself. Thank you.

Okay, Wendy.

MS. NOREN:

I have a question and a clarification on all of these, because -- I think because I didn't have that answer, it may affect my vote. When you say, end to end testing, my question is, and part of this is as a result of a discussion I had with someone from the Election Technology Council last week. Okay, voting equipment manufacturer is in testing now to the Version 2002 standards, okay. They did not choose to go to this. They get approved at that. There is a belief that they can do piecemeal into this Version 3. Is that correct? Or is somebody going to be able to bridge from the Version 2 to the Version 3? In other words, if somebody just wanted to add a piece to make the disability thing more accessible that would meet this, do they go through the full testing to come up to Version 3?

MR. MASTERSON:

That's an excellent...

MS. NOREN:

Did anybody understand that?

MR. MASTERSON:

I understood it. That's an excellent question. We have a modification process in our testing and certification manual that states what a modification is, and the EAC determines whether something is a modification or simply a new system, basically. And so, the answer to your question is, someone can come to the EAC - a manufacturer can have a certified system, you know, that's certified to the 2002, bring it in and say, "We believe this to be a modification. We would like this modification and its impact on the system tested." Currently, that modification would be tested to the 2005, I'm sorry, Version 3. When this becomes effective, it would be tested to Version 3.1. So, the answer to your question is, a manufacturer could create a modification to the, whatever part of the system, but we'll say for purposes of -- because this was the recommendation we were just dealing with, a modification to the accessibility portion of it, say the VVPAT section, and this 3.1 would apply to that modification if it's in effect at that time. Now, according to this recommendation, that modification would not be required to meet this requirement that's listed here, because that would not be end to end testing. Full, complete system end to end testing implies it is a new system to the EAC that is undergoing new certification. So, it is an uncertified system to the EAC that we

haven't seen that we are testing end to end. Does that make sense?

MS. NOREN:

Yes.

MR. MASTERSON:

Okay.

MR. CUNNINGHAM:

Let's move on. That's 3.1.1. Our next issue is 3.3.4. Is there anything in the middle John that we need to...

MR. WACK:

No. We're on page 88. Matt, did you want to say something?

MR. MASTERSON:

I can't raise points of order, but I have a question I guess. And that is, you voted on the date, but the main recommendation was never voted on or approved. I'm just saying.

COMMISSIONER HILLMAN:

Yes, but we didn't...

MR. CUNNINGHAM:

But we didn't vote on...

MR. MASTERSON:

You didn't amend it.

MR. CUNNINGHAM:

...the full verbiage. We only -- we jumped to an amendment. All right, let's step back for one moment.

MR. MASTERSON:

I'm here to help.

MR. CUNNINGHAM:

All right, this is going to be a fun transcript. Okay, let's back up just for a moment, because we -- that was actually an amendment to the motion, I believe, if I'm not mistaken.

COMMISSIONER HILLMAN:

Right, right. The motion is still on the floor.

MR. CUNNINGHAM:

The motion was still on the floor to accept the recommendation of the Committee, and there was a second, and there was discussion. The amendment failed. So, at this point the motion is to adopt the recommendation, as it's proposed with the date of 2013 in it. Is there further discussion?

MS. NEDZAR:

You need a second before you can...

MR. CUNNINGHAM:

Pardon me?

MS. NEDZAR:

You never had a second on the main motion.

MR. CUNNINGHAM:

Oh, we didn't?

MS. NEDZAR:

You never had a second.

MR. DICKSON:

No, it's a Committee recommendation. Committee recommendations don't need a second.

MR. GARDNER:

Second.

MR. CUNNINGHAM:

Okay, now we have a Committee recommendation, and a second. Is there any additional discussion? Those in favor of that motion signify by saying aye. Those opposed, same sign.

[The motion carried unanimously.]

MR. CUNNINGHAM:

We move to 3.3.4 now, manual submission of the ballot. And John, do you want me to proceed as I just did with the Committee recommendation?

MR. WACK:

Sure.

MR. CUNNINGHAM:

This has to do, sort of to paraphrase, "If the paper ballot or VVPAT is the official ballot of record, a voter who lacks fine motor control issues may have a way to submit the ballot without handling the ballot or record." The recommended change for the requirement is as follows: "The accessible voting system shall provide features that enable voters who lack fine motor control or the use of their hands to submit their ballots privately and independently without manually handling the ballot. Voting equipment or systems, currently in use, are not subject to these accessibility requirements. As of January 1st, 2013, systems submitted for complete end to end testing shall meet this requirement." That is the recommendation of the Committee to the full Board.

MR. GARDNER:

Mr. Chair, I move its approval.

SECRETARY HERRERA:

Second.

MR. CUNNINGHAM:

Motion and a second to approve. Any discussion?

COMMISSIONER HILLMAN:

Could we have the second on the record?

MR. CUNNINGHAM:

The second is Secretary Herrera. Any further discussion?

Those in favor of the motion signify by saying aye. Those opposed, same sign.

[The motion carried unanimously.]

MR. CUNNINGHAM:

3.3.4 b and c is the next part of our recommendations. Is there anything between that and this that you want to talk about? All right, this has to do with support for non-manual input. Paraphrasing, "The accessible voting station shall provide a dual switch input or another alternative input technology solution which provides equivalent to or better access for voters with disabilities. If the accessible voting station provides dual switch functionality, then the system shall provide an industry standard jack for connecting the switch to the voting station. Additionally, the discussion section of this requirement shall describe the rationale for requiring an industry standard jack, as in it enables a variety switches to be used in addition to one or two provided as part of the voting system." Let me move to the recommendation. I think we

understand the premise. The recommendation is as follows: "The accessible voting system shall provide dual switch input or a functionally equivalent alternative input mechanism the enables the voter to perform all of the same actions as conventional forms of input. If the accessible voting system provides dual switch input, an industry standard jack shall be used to connect the switch to the voting system. Voting equipment or systems, currently in use, are not subject to these accessibility requirements. As of January 1st 2013, systems submitted for complete end to end testing shall meet this requirement." That is the motion of the Committee and I would put it forth for consideration and approval.

Mr. Gardner.

MR. GARDNER:

I move that we adopt the recommendation.

MR. CUNNINGHAM:

Is there a second?

MS. NOREN:

Second, Wendy Noren.

MR. CUNNINGHAM:

Is there discussion? Mr. Jenkins?

MR. JENKINS:

Yes, Phil Jenkins with the Access Board. The concern here is that we're requiring the voting jurisdiction to provide, not only -- to provide the switch or we're requiring them -- requiring the voting system to be functionally equivalent. The concern I have is that that leaves the jurisdiction to choose how they're going to

implement this without a standard. Yes, that's the way the revised wording is.

MR. CUNNINGHAM:

Yes, I believe that what this says is the manufacturer makes that choice.

MR. GARDNER:

The manufacturer makes the choice of which to do, but the jurisdiction decides what -- if the manufacturer provides the dual switch input, then the jurisdiction has to provide the AT or the guy brings it with him, the switch to plug into the dual switch input. So, there's the switch input and there's the switch itself. What the first sentence of the proposed wording says "shall provide dual switch input, or a functionally equivalent alternative input mechanism." So, I'm concerned that that's leaving a loophole, so to speak, for the manufacturer not to have to provide the dual switch input...

MR. CUNNINGHAM:

Mr. Dickson?

MR. JENKINS:

...and, therefore, we...

MR. CUNNINGHAM:

I'm sorry.

MR. JENKINS:

...end up with a head stick issue that is not effective, sometimes.

MR. DICKSON:

Jim Dickson. The reason for that language was to address the fact that technology is changing and while dual switches are

what -- that's the standard plug now for things like sip-N-puff that we didn't want to lock the future into sip-N-puff. We wanted something that said the manufacturer has to provide something on the machine that then allows a voter to use the sip-N-puff, or something like that. Because this is a manufacturer requirement, I think this solves the head stick problem because it has to be part of the machine. A head stick is not part of the machine.

MS. ROSENTHAL:

This is Lynn Rosenthal from NIST. As a conformance expert, for many years, in reading standards and how to interpret many of these things, I read this as saying that the manufacturer has to provide a voting system that either has a dual switch input, or a functionally equivalent alternative input mechanism, or both. That the voting system...

MR. DICKSON:

I move we delete that phrase.

MS. ROSENTHAL:

No, that's how I'm reading this...

MR. DICKSON:

Okay.

MS. ROSENTHAL:

...that the voting system manufacturer has to provide a machine that has one or the other, and if they want they could actually provide both if they'd so desire. That's how I would read this and that's how I would build the test for it.

MR. CUNNINGHAM:

Lynn, this is Keith Cunningham, is that what you're pulling out of it, "The accessible voting systems provides dual switch input"? Is that where you're pulling that from?

MS. ROSENTHAL:

Yes, the first sentence.

MR. CUNNINGHAM:

Okay.

COMMISSIONER HILLMAN:

"Shall provide."

MS. NOREN:

"Shall provide."

MR. CUNNINGHAM:

Or, "Shall provide a dual switch mechanism."

MS. NOREN:

It's a mechanism they provide. I think that may be the word. Is a mechanism a part of a machine? Or is a mechanism a procedure that the election official would have to implement to do?

MS. ROSENTHAL:

The machine...

MS. NOREN:

And you're saying it's part of the device.

MS. ROSENTHAL:

I'm saying the device would have to have an input port, a mechanism in order to plug something in.

MS. NOREN:

So, mechanism is a tight enough word that they aren't going to pass this off back to us, which I thank you very much for thinking of us because too often it's not done. So, I think -- okay.

MR. JENKINS:

Phil Jenkins, Access Board. If I can follow-up with what Lynn just said, if the manufacturer chooses the dual switch input that's only half the solution. Then the voting jurisdiction has to provide the switch because it's "or," not "and." Either the input switch or a functionally equivalent."

MS. ROSENTHAL:

Right, the manufacturer only has to provide a machine with either -- one of those, not necessarily, right.

MR. JENKINS:

So, if the manufacturer provides the input switch -- the input, a port, like a serial port or a parallel port or a USB port, then the jurisdiction has to provide the switch.

MS. ROSENTHAL:

I don't read it that way, but...

MR. JENKINS:

Well, then what does the manufacturer have to provide?

MS. ROSENTHAL:

I read it -- okay, if the manufacturer provides a dual switch input, then the machine will have...

MR. JENKINS:

It will pass.

MS. ROSENTHAL:

...will have -- excuse me?

MR. JENKINS:

It will pass.

MS. ROSENTHAL:

Yes. If the manufacturer provides the machine with an alternative input mechanism, they could also pass.

MR. JENKINS:

The concern is, again Phil here, that if they only provide the input then when the voter shows up at the machine they have to plug something into the input.

MR. DICKSON:

I see.

MR. JENKINS:

So, the concern is the voter has to bring that...

MS. ROSENTHAL:

That is correct. They are providing...

MR. JENKINS:

I mean, that requires the voter to bring this...

MS. ROSENTHAL:

That's like on a laptop having a USB port, but you have to give me whatever to stick into my USB port, correct?

MR. JENKINS:

Right, so who provides the switch, the thing you're plugging in?

MS. ROSENTHAL:

That is not part of the standard. That is not levied on the manufacturer. So, you were correct, somebody would have to...

MR. JENKINS:

And if I understand the...

MR. CUNNINGHAM:

I'll give you the USB port, you got to provide the mouse. I mean that's what we're talking about.

MR. JENKINS:

But the concern, then, is in the paragraph before it says to use a switch provided by the voting jurisdiction, and we're not providing a standard on that. So that's...

MR. CUNNINGHAM:

Yes, let me -- I'm under the impression that, though -- and Matt you can jump in here, I'm under the impression that the sip-N-puff style device, which is somewhat personal, is the property of the voter to begin with. I mean, I don't think that any of the standards, heretofore, or any of the practices, heretofore, anticipate that the election jurisdiction would be providing a sip-N-puff device, let's say, for every voter that needs one. But, you know, I could be way off base there.

Ron, I'll get to you in just a second. Let me let Matt jump in here, with, hopefully, a clarification.

MR. MASTERSON:

I think so. This was discussed with the Committee and, actually, in the Committee's own statement in the second paragraph it says, "This allows individuals with disabilities to use a switch provided by the voting jurisdiction as part of the voting system, or they can bring a switch to the polling place that meets their unique motor needs." So, I know this discussion was had within the Committee on who is responsible for providing. And I

think, if I remember correctly, and Mr. Dickson can clarify, the idea was that a lot of times voters want to use their own assistive technology, and that the ability for the device to provide that ability needs to be there. But that's what I recollect from the conversation.

MR. CUNNINGHAM:

Mr. Thomas?

CHAIR THOMAS:

It doesn't seem to me that the standard ought to set the requirement. Who's required to provide the switch is, maybe, a policy issue that may go to each jurisdiction, but these standards should not make that decision. That would be my point.

MR. CUNNINGHAM:

Ron, and then I'll come to Secretary Nelson.

MR. GARDNER:

Yes, thank you, Ron Gardner. I didn't understand the issue until Phil Jenkins, my colleague from the Access Board, was persistent. I completely agree with him and I think the issue that he's raising is an important one. We also have a staff member here from the U.S. Access Board, and he advises me that in the current VVSG a voter cannot be required to provide anything that is necessary in order to vote. In other words, when he or she arrives to vote, it needs to be there ready to vote.

Now, from my perspective, when I go vote -- I'm happy to say I voted for you twice, Governor -- when I go vote, independently, I can show up and use the headphone that is there, ready to us, or I can plug in my own that I brought from home. But, the requirement in the current VVSG is that the jurisdiction has to

have that headphone or something ready for me to use, through non-visual access. What I hear Phil Jenkins saying is that this language requires that the manufacturer provide the jack into which you plug the switch, period, into which you plug the switch. But that parenthetical, or the “or” statement there seems to do exactly what Phil was saying, and that is, who is going to provide that switch, the item that actually makes it accessible and usable to that person with the disability?

So, I don't know if I can do this, but I really want to withdraw my motion, to accept it as written.

MR. CUNNINGHAM:

Yes, sir, you can.

MR. GARDNER:

Thank you.

MR. CUNNINGHAM:

Who had the second? Do they want to withdraw the second?

MR. DICKSON:

Before that happens, can I for a point of information...

MR. GARDNER:

Who's talking?

MR. CUNNINGHAM:

Mr. Dickson,, yes.

MR. DICKSON:

Jim Dickson. As a point of information, both in the Committee and with -- Mr. Jenkins is right to point out this distinction. This language was a difficult, but conscious

compromise. The analogy with earphones doesn't totally fit this set of disabilities, because the range of devices, the switch, are -- there's lots and lots of them, and depending on a person's level of paralyzation, there is not going to be one, two, or even a blend of three switches, in the polling place that's going to meet the needs of very many people who are paralyzed. So, we were trying -- to follow up on Chris' point, we were trying to not put the provision of the switch into the standard but wanted that to be a practice or policy decision, so that, you know, a jurisdiction, as some have done, could have sip-N-puff. Or it could work the way some public meetings work when a deaf person will need a sign language interpreter, that the individual who needs the interpreter needs to notify in advance, "I'm coming, I'm going to need an interpreter." So, we were trying to deal with cost, the huge variety of switches and capacities with this language. And maybe it doesn't -- maybe it could have been said better, but that was our intent.

MR. CUNNINGHAM:

Secretary Nelson?

SECRETARY NELSON:

Chris Nelson. I'm going to try to amend this to, maybe, say it better, and Jim, I think this will do what you're talking about. If we delete the second line, which begins "dual switch," delete the third line that begins "the voter," and delete on the fourth line up to the comma. And so, what that then says is, "The Acc-VS shall provide an industry standard jack shall be used to connect the switch to the voting system." Requires the jack, does not talk about the switch.

MR. GARDNER:

Ron Gardner. What about the current requirement that, whatever is necessary to make it usable, is there? Do I understand that requirement correctly?

MR. CUNNINGHAM:

Secretary Nelson.

SECRETARY NELSON:

If that's a current requirement, then why are we adding this?

Then, I'm really lost.

MR. CUNNINGHAM:

That's a very good point.

MR. DICKSON:

Jim Dickson. We are adding this because of the MicroVote, which was certified to the 2005 standard without the jack or the switch. So, that's why we were adding this. You know, I'm trying to be sensitive to time here, and I'm sort of -- Mr. Chairman I'm sort of stuck, procedurally, how we move here.

MR. CUNNINGHAM:

Okay, how about this, how about a little -- Mr. Jenkins, go ahead. And then, I think let's take a little break, massage this a little bit and come back.

MR. JENKINS:

I think we might be able to make this work by saying that this is an exception to the rule above that says the voter does not have to bring anything. In this case, they may be -- they may have such a disability where their device doesn't -- they're going to have to have a unique device, but it will be compatible with this input jack.

MR. CUNNINGHAM:

Will you work on some modified language during the break and come back to us with something?

MR. JENKINS:

Yes.

MR. CUNNINGHAM:

Does that meet everybody -- Mr. Gardner, is that...

MR. GARDNER:

Sure, yes.

MR. JENKINS:

I believe the intent here is to accommodate more users with disabilities, but not necessarily every case known.

MR. CUNNINGHAM:

Mr. Lewis?

MR. LEWIS:

This is Doug Lewis. Mr. Chairman, I think what we've got here is a confusion between what is a standard for manufacturing a voting system with an implementation of how the voter votes. These are -- we're beginning now to try to specify in the language of the standard that which does not belong in the standard. The standard is to provide the ability to solve the problems and/or address the problems of accessibility. It is then up to implementation phase, whether that comes from the vendor or the jurisdiction, as to how they best do that in terms of adding the device. So, try to separate and remember we're not trying to do all of this in one deal. We're actually talking about what is testable and designable as a manufacturing standard, and implementation comes later.

MR. CUNNINGHAM:

Secretary Nelson.

SECRETARY NELSON:

I move the following language, and it's very similar to what I illustrated before, "The Acc-VS shall provide an industry standard jack used to connect the switch to the voting system. Voting equipment or systems, currently in use, are not subject to these accessibility requirements. As of January 1st, 2013, systems submitted for complete end to end testing shall meet this requirement."

MR. CUNNINGHAM:

Is that a motion to amend the Committee recommendation?

Is that what that is?

SECRETARY NELSON:

That is correct.

COMMISSIONER HILLMAN:

But the second wasn't -- no, he didn't.

MS. NEDZAR:

The second did not withdraw.

COMMISSIONER HILLMAN:

Right.

MR. CUNNINGHAM:

The second did not withdraw from the motion?

MS. NOREN:

Do you want me to withdraw my second?

COMMISSIONER HILLMAN:

Just for clarification, if we remember Mr. Gardner said he would, but then Mr. Dickson said, "Before we do that, can I speak"? So, as far as I can tell, the motion has not been formally withdrawn.

MR. CUNNINGHAM:

That's true.

MR. GARDNER:

Ron Gardner.

MR. CUNNINGHAM:

Mr. Gardner?

MR. GARDNER:

I'd like to withdraw my motion, formally.

MR. CUNNINGHAM:

Ms. Noren?

MS. NOREN:

I'll withdraw my second.

MR. CUNNINGHAM:

Okay, we're back where we started. I would suggest taking a break. Let's take a bit of a break and come back at this in ten minutes. Be back here at 4:25.

[The Board recessed from 4:15 p.m. until 4:31 p.m.]

MR. CUNNINGHAM:

Okay, let's return to our task. At this point, when we last joined our hero, he was about to make a motion. Is that correct, Mr. Nelson? Do you still have a motion?

SECRETARY NELSON:

Yes, the motion that I made immediately prior to recessing, I think we were still in need of a second, but I guess, maybe that's what we needed first.

MR. CUNNINGHAM:

Yes, let's restate the motion...

COMMISSIONER HILLMAN;

Restate the motion.

MR. CUNNINGHAM:

...and just pick up where we were.

SECRETARY NELSON:

"The Acc-VS via shall provide an industry standard jack uses to connect the switch to the voting system. Voting equipment or systems, currently in use, are not subject to these accessibility requirements. As of January 1st, 2013, systems submitted for complete end to end testing shall meet this requirement."

MR. CRANGLE:

Second, Mr. Chairman.

MR. CUNNINGHAM:

We have a motion and a second for the purpose of discussion. Mr. Crangle made the second.

MR. LEWIS:

Joe Crangle.

MR. CUNNINGHAM:

Motion by Mr. Nelson, Mr. Nelson you have the floor.

SECRETARY NELSON:

Just brief comments. I made the motion to try to move this issue along. I guess, the one thing I want to make clear is I can't

support any language that could be construed as requiring us to provide a dozen different kinds of switches at every polling place. And what this does is it allows the opportunity for somebody to bring in a switch and utilize the machine. Thank you.

MR. CUNNINGHAM:

All right, Ms. Simons.

DR. SIMONS:

Barbara Simons, I just have a comment to make. And I'm not sure about making a friendly amendment to this, because it might not pass, but my feeling is is that I don't see how any machine can be called accessible if it doesn't even have a jack. And so, I would actually, in this case, vote for 2011, even though I didn't on the previous one. So, I don't know if people feel that 2011 would be reasonable for this. Thanks.

Should I make that as a friendly amendment?

MR. CUNNINGHAM:

I'm not...

DR. SIMONS:

It's not friendly? Oh, it's unfriendly? Oh, sorry, I don't want to be unfriendly.

MR. CUNNINGHAM:

Mr. Jenkins?

MR. JENKINS:

I'd like to make a friendly amendment to the -- propose a motion to use the term "dual" switch.

DR. SIMONS:

We're talking jacks, aren't we?

MR. JENKINS:

Dual switch input, jack. The original proposal is, "Shall provide a dual switch input." And I believe Chris' was just, input, so it's the dual switch input. It allows for the existing device if it is provided, or a way to add the individual's.

MR. GARDNER:

I'm just not hearing. So, Phil, just what is the addition?
What is the change?

MR. JENKINS:

Dual switch input allows either the one built into the manufacturer's device, or the one supplied by the voter if they have a special one. But the jack is available to plug in, so, they use the term dual switch meaning either/or. There's a way to plug two things in -- to have one plugged in and then a second one plugged in, if I understand it. That's the way I understand it. So, it's another way of saying it is an available jack.

MR. CUNNINGHAM:

Mr. Dickson.

MR. JENKINS:

I wasn't finished, though.

MR. CUNNINGHAM:

Oh, I'm sorry.

MR. JENKINS:

The second half of the friendly amendment is to add the phrase "and may provide a functionally equivalent alternative input mechanism", so that the manufacturer has to provide the jack and may also provide an alternative, but it's not required to provide the

alternative. In other words, that way the manufacturers can provide a complete system to the voting jurisdiction, so they don't have to go buy more switches.

MR. CUNNINGHAM:

I honestly think we've almost come almost full circle back to the original -- did you accept the amendment?

SECRETARY NELSON:

Not yet, I think I need a little bit more information. Again, we're just providing a minimum standard here, not an operational issue.

MR. CUNNINGHAM:

Yes, I think...

SECRETARY NELSON:

And so, all I'm asking for is that the machine has to provide an industry standard jack, period. And if manufacturers want to include a switch on the machine, with the machine; if election officials want to provide a switch with the machine, on the machine, that's fine, but that's not part of the standard. The standard is a jack, so that the machine can be used.

MR. CUNNINGHAM:

Let me ask for clarification on one thing here. Is the switch the device that would be used?

MR. JENKINS:

Yes.

MR. CUNNINGHAM:

Okay.

MR. JENKINS:

Yes, that's the industry term. It's a puff...

MR. CUNNINGHAM:

A sip-N-puff, or a whatever, maybe is a switch.

MR. JENKINS:

Single switch, right.

MR. CUNNINGHAM:

Very good, okay, I'm sorry I didn't understand that. But actually -- there are, again for clarification, there are a variety of switches. Is there -- do they have standardized jacks?

MR. JENKINS:

Yes.

MR. CUNNINGHAM:

So, they all would have a USB plug, or whatever it would be?

MR. JENKINS:

Correct.

MR. CUNNINGHAM:

No matter what -- no matter what the device, it has a standard jack. And what we're really talking about here is, as you say, the machine has that port in it that accepts that jack, which is a standard.

DR. SIMONS:

Right.

MR. CUNNINGHAM:

Now, the device itself becomes a functional item for use. I mean, you really can't, excuse me if I'm editorializing here, but you really cannot put in a manufacturing standard that every device

available to fit that jack must also be supplied with that machine. Is that -- I mean I'm a little -- the switch is that...

DR. SIMONS:

It's just a jack, no switch.

MR. CUNNINGHAM:

We just want to make sure there's a jack.

DR. SIMONS:

A receptacle, a plug.

MR. CUNNINGHAM:

Mr. Lewis?

MR. LEWIS:

Mr. Chairman, am I understanding Secretary Nelson's motion is to eliminate that phrase, then, that says "or a functionally equivalent alternative input mechanism"? You're deleting that, is that correct?

SECRETARY NELSON:

That is correct.

MR. LEWIS:

We're doing an industry standard jack...

SECRETARY NELSON:

Period.

MR. LEWIS:

...and that's it? Period.

SECRETARY NELSON:

Yes.

MR. LEWIS:

In defense of local elections officials, if you provide both, as the original motion does, my guess is that manufacturers will find a way to provide a functionally equivalent that you can only buy from them.

DR. SIMONS:

That's a good point. That's a good point.

MR. CUNNINGHAM:

Mr. Dickson, did you still have any remarks?

MR. DICKSON:

It's on a different point, so...

MR. CUNNINGHAM:

Okay, all right, don't -- Sarah Ball Johnson, did you have a point?

MS. JOHNSON:

Well, I'm just confused, and maybe that's just a normal state. Don't answer that question.

I do want some clarification, and this was going back to the very end before we went to lunch, which affects this whole issue of the motion and the amendment, and it's something that, I think, Ron brought up about the current standards, and whether the current Version 3 standards contain language that requires election official, the machine, whoever, that it requires that the voter not bring -- have to bring anything to vote on the voting machine. That was a statement that was made earlier. And I just, you know, I would like to know the answer to that specific question, because if the current standards say that, that would affect what we're doing

right here. Good or bad I just want that -- personally would like that answer, because I think that's a lot of the confusion.

MR. CUNNINGHAM:

Mr. Masterson.

MS. JOHNSON:

And it's not a policy versus, you know, whatever. We've got to answer what's in there, now.

MR. CUNNINGHAM:

Can you answer that question, Mr. Masterson?

MR. MASTERSON:

We're going to pull it up on the screen, so that we can read directly from it.

MR. CUNNINGHAM:

You're pulling up the current...

MR. MASTERSON:

The current -- yes the current. Not the revised. I don't even think that language was revised, but we will pull up the current wording to quote from it. So, just give us a minute to pull it up.

MR. CUNNINGHAM:

Okay, I'll give you a minute. Does anybody else got any comments while they're looking for that?

COMMISSIONER HILLMAN:

I do have a question, Gracia Hillman here. My question, I think, is to any one of the people who are trying to amend this, and I'm going to stay single-focused right now. Would the current motion -- the wording of the current motion enable the use of the sip-N-puff?

MR. JENKINS:

Yes.

COMMISSIONER HILLMAN:

All right, thank you.

MR. CUNNINGHAM:

Mr. Jenkins said yes. Mr. Dickson?

MR. DICKSON:

While we're waiting, this is Jim Dickson, I have a -- there's a phrase here -- after this substantive stuff, it talks about, this doesn't go into effect until 2013. Most of the equipment in use has this receptacle for the sip-N-puff, or something similar to that. If we have the 2013 date in there, is that going to create confusion for the manufacturers? We're not going to see anybody take the plug out of the machine, are we?

MR. MASTERSON:

No.

MR. CUNNINGHAM:

If it's already in there, I doubt -- I mean that's a good question, but I don't...

CHAIR THOMAS:

Well, you don't want to see anyone build one without one, do you?

MR. CUNNINGHAM:

No, no.

CHAIR THOMAS:

So why use 2013?

MR. CUNNINGHAM:

Mr. Masterson.

MR. MASTERSON:

We have the language from the current 2005. It's going to be hard to read because it's stricken through.

MR. CUNNINGHAM:

What page?

MR. MASTERSON:

Version 3, I'm sorry. It's on page 74 of the Version 3.1, and it's stricken through, so I will read it out loud, so everyone can hear it as well. So, that's page 74 for those of you who have Version 3.1 in front of you, the full version. And it reads, "The support provided to voters with disabilities shall be intrinsic to the accessible voting station. It shall not be necessary for the accessible voting station to be connected to any personal assistive device of the voter in order for the voter to operate it correctly."

MR. CUNNINGHAM:

Translate that, please.

MS. NOREN:

So this -- Wendy Noren. Can I...

MR. CUNNINGHAM:

Wendy, go ahead.

MS. NOREN:

This is -- when it said "it shall not be required," this is the reason that one was able to pass, what is it, without having -- allowing people to access...

MR. MASTERSON:

No, that involves a different requirement which, basically, says that the voting device shall not require the voter to have direct human contact with the device in order to vote. And the testing of the system that Mr. Dickson brought up, the system uses a head stick or mouth stick and the laboratory felt that, you know, not having to touch the device it was acceptable, you know. No human contact meant that the head stick or mouth stick qualified.

MS. NOREN:

Okay. So do we have another section we need to fix? Not to confuse it, but if that was another section and that's what's causing it then I want to make sure we get that fixed too.

MR. MASTERSON:

No, Mr. Dickson's proposal would fix that section...

MS. NOREN:

Okay.

MR. MASTERSON:

...that deals with the you do not need to touch the voting device. His proposal fixes that ambiguity.

MR. JENKINS:

But Chris' motion now requires the individual to bring the switch.

DR. SIMONS:

No.

MR. MASTERSON:

That would be a different -- yes, that's a different requirement.

MR. JENKINS:

Well, I thought that's why you were looking it up.

MR. MASTERSON:

I looked it up to state what the current standards says, so that would be a difference from the current standard, in that you wouldn't need -- the voter would need to bring something with them. It wouldn't be intrinsic to the system, as the standard currently reads.

DR. SIMONS:

Barbara Simons. Just to understand, the current standard does not require a jack. Is that right?

MR. MASTERSON:

That is correct.

DR. SIMONS:

So, it seems like we've got a Catch-22 here. I mean, it's like if I want to bring something, there's nothing for me -- there may be nothing for me to plug it in, but if I want to use the -- but on the other hand, we don't want to have to provide -- I think I'm being so confused right now. We want to let people be able to plug their own switch in. On the other hand, we don't want to force the local election officials to provide all of the switches, right? And the question is, what happens then for people who don't have their own switches. And that's where I think we've got a conundrum, right? Am I correct?

COMMISSIONER HILLMAN:

I have a question, Gracia Hillman. What is replacing this stricken language? Is there language comparable to this in the proposed 3.1? Or was this being eliminated altogether?

MR. MASTERSON:

It's on page 73 of 3.1, and it says -- it's on page 73 -- here, I'll even give you the section number. 3.1- c reads almost exactly the same, if not exactly the same. "The support provided to voters with disabilities shall be intrinsic to the accessible voting station. It shall not be necessary for the accessible voting station to be connected to any personal assistive device of the voter in order for the voter to operate it directly." So, it's the exact same language.

COMMISSIONER HILLMAN:

So, my follow-up question on standards is, if this standard is in place, and if there's a standard in another place that doesn't articulate, does this trump the other standard? In other words, the motion that Secretary Nelson offered suggests the voter has to bring their own equipment. Does the standard that you just read trump that one, so that it requires the industry standard jack, but it already requires that the jurisdictions provide equipment to the voters? I think Lynn understands what I'm asking, and so, if I'm not clear, please repeat it.

MS. ROSENTHAL:

In this case, the new proposed requirement does not trump. What we would do is take the new proposed requirement and go back and eliminate or fix other requirements for which there is a conflict. So, the new proposed requirement would, if you will, trump, and we would have to go back and fix anything that it would touch, either delete requirements, or tweak other requirements, so that it was consistent throughout.

COMMISSIONER HILLMAN:

So, theoretically it would...

MS. ROSENTHAL:

Replace.

COMMISSIONER HILLMAN:

...cause us to go back to remove the language in the section that was just read?

MS. ROSENTHAL:

Correct, correct. One way forward, if I may, is if the Committee could state their objective or what they want to achieve, we at NIST could craft the requirement if we understand what you're trying to do or what you want. Then, we can deal with the requirement itself, as well as harmonizing against other requirements there. That may simplify things possibly.

MR. CUNNINGHAM:

All right, Mr. Reynolds?

MR. REYNOLDS:

If what the intent is, could it not be said provided that, however, it is the intention of this body to not make any recommendation that would do, you know, that would weaken?

MR. CUNNINGHAM:

Yes, I see that...

MR. REYNOLDS:

If you come could up with language that would, you know, intention -- we do that -- provided that, however, all the time. I mean, you know, courts tend to interpret...

MR. CUNNINGHAM:

Yes but, I mean, correct me at that end of the room if I'm wrong, I mean, we're dealing with a standard here. Are we not trying to get something very explicit in place that reflects more than it should? Actually, the verbiage should reflect our intent, should it not? Or are we -- because you're writing a technical document here.

CHAIR THOMAS:

She just offered to write it.

MR. CUNNINGHAM:

All right, well, go ahead, John, I'm sorry.

COMMISSIONER DAVIDSON:

I was going to say if I could, this is Donetta Davidson, since Lynn volunteered to write it, and I'm going to put some timeframe on her, but if you would like, maybe they could write this, and then you could bring the language in tomorrow morning the first thing, and you could vote on it.

MS. ROSENTHAL:

No.

COMMISSIONER DAVIDSON:

No?

MS. ROSENTHAL:

It would not get written tonight, unfortunately.

MR. CUNNINGHAM:

Let's stop just for a minute. We have a motion on the floor that has a second. Is that correct? Is that my recollection?

MR. LEWIS:

And you've got...

MR. CUNNINGHAM:

And an amendment to it.

MR. LEWIS:

You've got an amendment, which she has to either accept or not accept.

MR. CUNNINGHAM:

Right, but the other option is, he can withdraw the motion, he can withdraw the second, he can withdraw the amendment, we can state the objective, and let NIST craft something. And what then -- what would be our correct procedure then? Would that be sent to the Committee -- or sent to the...

COMMISSIONER HILLMAN:

Submit it as a recommendation. My suggestion is, rather than the Board trying to craft precise language, you agree on the objective, as clearly as possible, and then submit that to EAC as your recommendation. I know I don't have a vote in this, but I certainly would not want to be confronted with having to make a choice between one or the other, if both can be done. And rather than struggle with the language now, if the objective is stated, then I think we can work to find the language.

MR. CUNNINGHAM:

You don't feel that the full Board should, at least, see that language before it's finalized? I mean that's okay with me.

COMMISSIONER HILLMAN:

I mean, I don't know how we'd get it done before 12 noon, tomorrow. That's all. That's all.

MR. CUNNINGHAM:

Right, I don't either. Mr. Wack?

MR. WACK:

John Wack here. Okay, just to make sure that we at NIST understand a little bit, it's my understanding that you wish to keep the over-arching requirement that's in there already, that basically says -- perhaps, it's best I read from it. "Its purpose is to assure that disabled voters are not required to bring special devices with them in order to vote successfully." So, you wish to keep that, but you would also like to see a requirement that says, "The accessible voting system shall provide an industry standard dual switch input jack."

MR. JENKINS:

Mr. Jenkins, Access Board, thank you. I believe that we can craft this in a way where we have both requirements, but also add what I will call an exception clause, that says in certain situations the device provided -- the switch provided may not work for everyone, and that's why we're adding the input jack, so that if the person brings one they can still use it. There's not a way to provide "a" switch that will satisfy all requirements, and that's the exception. We can word it up real quick, here, and submit back.

MR. CUNNINGHAM:

Are you saying you can?

MR. JENKINS:

Me and the Access Board staff, yes.

MR. CUNNINGHAM:

Can you do that by tomorrow morning?

MR. JENKINS:

Yes.

MR. GARDNER:

I think we can.

MR. CUNNINGHAM:

You believe you can? I mean you're the...

MR. JENKINS:

I won't be here, but Ron said he can.

[Laughter]

MR. CUNNINGHAM:

Secretary Nelson.

SECRETARY NELSON:

I like what Mr. Jenkins has just said, because I'm horribly bothered by this existing language, and I didn't realize it was here. I mean, it's telling us we've got to have a dozen kinds of switches, and Mr. Jenkins has said that's not practical, and I agree with that. And so, if we can deal with both of these, this is good.

MR. CUNNINGHAM:

Mr. Lewis?

MR. LEWIS:

My recommendation to the Chair is that a subcommittee be appointed to work prior to tomorrow morning's meeting, consisting of Secretary Nelson, and members of the Access Board, and/or others that may choose to serve on this committee, and bring back a recommendation in the morning that fits, at least, the sense of the Board, if not the exact language of the Board.

MR. CUNNINGHAM:

The Chair accepts that recommendation. Mr. Nelson, would you care to withdraw your motion?

SECRETARY NELSON:

Motion withdrawn.

MR. CRANGLE:

Second the motion.

MR. CUNNINGHAM:

You're withdrawing your second?

MR. CRANGLE:

No, I'm...

MR. CUNNINGHAM:

You're seconding Mr. Lewis' motion?

MR. CRANGLE:

That's right.

COMMISSIONER HILLMAN:

Are you withdrawing your second?

MR. CUNNINGHAM:

I think Mr. Lewis was just a recommendation. Was that actually a motion or a recommendation?

SECRETARY NELSON:

Just a recommendation.

MR. CUNNINGHAM:

Okay. Your second to Mr. Nelson's motion, are you withdrawing that? Please withdraw your motion, so that we can enable this process.

MR. CRANGLE:

I withdraw my second.

MR. CUNNINGHAM:

Your second, I mean. Give me a hundred bucks and we're done.

[Laughter]

MR. CUNNINGHAM:

Mr. Jenkins, and you'll withdraw your friendly amendment and all that?

MR. JENKINS:

Yes sir, I withdraw my friendly amendment.

MR. CUNNINGHAM:

All right, so then, Mr. Jenkins, Mr. Gardner, Mr. Dickson, Secretary Nelson, and anybody else that wants to play. Does anybody want to volunteer to be chair before I appoint somebody? Mr. Gardner you seem to...

MR. GARDNER:

I accept it, yes.

MR. CUNNINGHAM:

Okay. Then, we agree that sometime between now and tomorrow morning at 9 o'clock you will bring us new language that we can consider at that point, and all of this has been for naught.

MR. GARDNER:

I accept the challenge.

MR. CUNNINGHAM:

There are one, two, three, four. Do we need five? Oh, yes, we need a fifth member of that committee. Should we have -- no, we need a member of this body, don't we?

COMMISSIONER HILLMAN:

Uh-huh.

MR. CUNNINGHAM:

Looking around, does anybody -- who are you pointing to?
Are you pointing to Wendy?

MR. LEWIS:

Somebody on that side.

MR. CUNNINGHAM:

Oh, on that side of that room?

CHAIR THOMAS:

Keith?

MR. CUNNINGHAM:

Yes.

CHAIR THOMAS:

You're okay with four.

MR. CUNNINGHAM:

It's okay?

CHAIR THOMAS:

Yes.

MR. CUNNINGHAM:

All right, it's okay with four. If it's a tie vote, you'll deal with
me in the morning.

MR. GARDNER:

My understanding is that Phil Jenkins is leaving this evening.
I'll have his proxy. There won't be a tie vote. I'm a lawyer.

MR. CUNNINGHAM:

Why didn't you say that awhile ago?

[Laughter]

MR. CUNNINGHAM:

All right, are we at a place where we want to -- Mr. Chairman, are we at a place where we want to call this a day? Or do we want to move...

COMMISSIONER HILLMAN:

We've got a lot for tomorrow morning.

CHAIR THOMAS:

Yes, we'll have a lot. Tomorrow morning we'll have to be at it and moving along. I don't think the further recommendations from the Committee contain the controversy that these past three have, so I think they will be moving much quicker. If any of you have motions, be thinking about them for tomorrow morning on any topic. We will certainly make time for that.

MR. CUNNINGHAM:

Do you want to -- we were just talking about going over the generals. Let's go over the generals.

CHAIR THOMAS:

Can we do the three? Keith, do you want to go ahead with the three?

MR. CUNNINGHAM:

Yes.

CHAIR THOMAS:

I don't think they're controversial.

MR. CUNNINGHAM:

Okay, the other three.

CHAIR THOMAS:

Yes.

MR. CUNNINGHAM:

The use of -- okay, what we're going to do here, real quick, on this May 26th document, is look at the last paragraph on the first page, then skip the accessibility requirements on the second page, because we just discussed that, user guides and numeration of appendices. Those are pretty general recommendations of the Committee.

COMMISSIONER HILLMAN:

That's a separate...

MR. CUNNINGHAM:

Oh, it is? Oh, that's right.

COMMISSIONER HILLMAN:

It's create the appendix.

MR. CUNNINGHAM:

Oh, that's right, create the appendix. Okay, so we will look at that accessibility requirement.

Let me cover these for you real quick. Well, I think the first general recommendation is that -- does everybody have that document? "While working on updates of Version 3, EAC needs to develop and use language that will keep Version 3.2 relevant, while Version 4 is being developed. Continued work and discussion of Version 4 should emphasize that it is for the next generation of voting systems yet to be manufactured, and that Version 3.2, once adopted, will be the current standards." I mean, I think we all agree -- or we all understand that going in. Mr. Lewis?

MR. LEWIS:

This is Doug Lewis. I think to conform with what we said up above, it's update to Version 3.1 consistently throughout.

COMMISSIONER HILLMAN:

Right.

MR. CUNNINGHAM:

Okay.

MR. LEWIS:

Okay? So, all of those 2s would be changed to 3.1.

MR. CUNNINGHAM:

Very good. Other discussion on that general recommendation from the Committee?

The second recommendation is that, "An appendix to Version 3.1 that details all of the accessibility requirements." Just as a matter of explanation those requirements are scattered throughout the document, and for the sake of understanding of them in some comprehensive form simply locating all of them in one place as an appendix would be helpful, the Committee thought. Any discussion on that particular idea/concept?

The third general requirement, user guides, that we felt that the EAC should consider creating a best practice for the issue of user guides, you know. Basically, you know, this is sort of like that book that comes with your computer that nobody has ever really read, and I guess, we want to encourage manufacturers to -- I know you have, Wendy. We want, through the EAC, a set of best practices that manufacturers can use to develop very understandable and very helpful user guides.

And the fourth general recommendation was that in Version 1 and in Version 2, the appendices are both labeled "A," "B," "C," "D" and every time somebody was talking about one we had to go, "Is that Version 1 or is that Version 2?" So, we felt that in the discussion of these documents to renumber those appendices in a way that it was very clear that they are attached to either Version 1 or Version 2...

COMMISSIONER HILLMAN:

Volume I.

MR. CUNNINGHAM:

Volume I or Volume II would be helpful. So, those are general recommendations that the Committee is proposing, and I would -- for the sake of discussion, I will make the motion that those recommendations be accepted and approved.

MR. COWLES:

Bill Cowles, second.

MR. CUNNINGHAM:

Discussion.

MR. KELLEY:

Mr. Chairman, Neal Kelley, just a quick question, point of clarification. We'll start tomorrow, then, with Section 4, because I have questions in Section 4.

MR. CUNNINGHAM:

Yes, yes.

MR. KELLEY:

Okay, thanks.

MR. CUNNINGHAM:

Yes.

MR. JENKINS:

I have a clarification question versus Volume I and Volume II. Volume I's table of contents has eight sections for requirement. Volume II's section there are only five sections for testing. I don't know if -- I would like to see, maybe, why they don't map exactly. It's a question.

MR. CUNNINGHAM:

Why both volumes don't have the same number of sections?

MR. JENKINS:

Yes.

MR. CUNNINGHAM:

John Wack?

MR. WACK:

Well, I think, basically, there may never have been an intention for the two volumes to map in that way. But what we discovered when we, basically, rewrote it for the Next Iteration was that Volume II, while you think that it is mainly for testing, actually, does have a fair number of product requirements, and Volume I does have some testing requirements. So, it's necessary to look at both of them together, and I would just chalk it up to a standard that, today, would be rewritten differently. But, you know, when that was put together, that was just the best people could do.

MR. JENKINS:

Would it be possible to add that language to the document in either Volume I or Volume II?

MR. CUNNINGHAM:

I'm not sure I follow you. Go ahead.

MR. JENKINS:

I'm just asking if it would be appropriate to add a statement to the document saying there is no intent to make them match and they should be used -- Volume I and Volume II should be used in total, so that we don't have NIST only looking at Volume II and the manufacturer only looking at Volume I; that both volumes apply to both the testing center and the manufacturer.

MR. WACK:

Well I think that we're all looking at both volumes. In all the time we always -- we've come to recognize that we always have to look at both, as well, with the test labs.

MR. CUNNINGHAM:

Yes, my sense has always been that the standards are comprised of both documents. Is that -- we've been dealing with those for awhile.

MR. WACK:

Yes, in the Next Iteration we don't have volumes, per se. We call them parts, but you could also think we have three volumes but we call them part 1, part 2, part 3. But, you know, we recognize they all need to be looked at in total.

MR. LEWIS:

Mr. Chairman?

MR. CUNNINGHAM:

Mr. Lewis.

MR. LEWIS:

We have your motion on the floor and it has been seconded.

I would like to call the question.

MR. CUNNINGHAM:

Okay, the question has been called. Those in favor of the motion to accept and approve those general recommendations signify by saying aye. Those opposed same sign.

[The motion carried unanimously.]

MR. CUNNINGHAM:

In closing, I want to encourage you, so that we can move somewhat expeditiously tomorrow, to please look at this document tonight and -- I guess what I'm saying is, and I don't mean that we didn't come, but let's -- you know, we've just seen what happens when we can -- so please, look at that document tonight. And, you know, I'm not saying you shouldn't come back with different feelings or different recommendations, but please come back with them tomorrow, so that we can move through this expeditiously.

MR. WACK:

John Wack from NIST. May I butt in quickly?

MR. CUNNINGHAM:

Yes, sir.

MR. WACK:

Since we're not going to discuss Section 3 tomorrow, other than other language we come up with, there was one other section there that I did want to point your attention to. It's just, basically, the section on poll worker usability. It's basically, kind of the first time we put requirements in there that address usability for poll

worker/election officials. So, I think it merits your attention to take a look at it, and if you think there is other material, or if that's not worded well, or whatever, I think we'd like to hear that. But that I think is important material for you.

MR. CUNNINGHAM:

And that is in Volume I?

MR. WACK:

That's in Volume I, Section 3.

MR. CUNNINGHAM:

Section 3.

MR. WACK:

Poll worker usability. It's at the very end...

MR. CUNNINGHAM:

Would you -- do you want to take a few minutes and go over it?

MR. WACK:

No, not really. It's pretty quick, easy reading.

MR. CUNNINGHAM:

All right, thank you for your indulgence. I'm sorry if it got silly, but we do the best we can.

CHAIR THOMAS:

We're going to recess now. We will reconvene tomorrow at 9 a.m. Can I have your attention for one moment, please? Breakfast is at 8 o'clock. We'll reconvene sharply at 9. We'll continue to work through this.

We have elections in the morning, and other resolutions that members want to bring forward. So, we'll see you bright and early tomorrow.

Thank you, we're in recess.

[The Board recessed at 5:08 p.m. EDT.]