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US Election Assistance Board Meeting

May 6, 2025

Testing captions.

Check, check. One, two. Good morning.

Testing, testing. Karen, testing. Testing.

>> Good morning. We'll get started in one minute.

>> RICKY HATCH: Good morning, everybody. Thank you for coming in. Apologize for the slightly late start.

Okay. So yesterday, we did old election officials never die. We have round two today. This is you might be an election official if. We're not going to go around to everybody. But I threw the prompt into ChatGPT last night and came up with a couple.

You might be an election official if you flinch every time someone says the word Sharpie.

You might be an EAC Board of Advisors member if you know that VVSG isn't a new streaming service, but you wish it had that kind of budget.

Okay.

>> Can we also say that your kids have to get married in odd years or you tell them you won't be at their weddings?

>> And one that I thought of last night, you might be an election official if you spend two hours talking passionately about elections and still don't know the political persuasions of the person you're talking to.

I will turn the time over now to Brianna.

>> BRIANNA SCHLETZ: Thank you. We're starting this morning with a discussion on the implementation of the executive order to protect the integrity of American elections. This session, we're wanting to collect feedback from the Board of Advisors on

the EO. Just to start, I think we'll go through each section starting with section 2A. So section 2A required that the EAC add documentary proof of citizenship to the federal form. This is enjoined by the court, but the court ruled that the EAC may still independently take action. We were considering simplifying the form and we were going to send consultation letters on that. And the EAC can accept feedback in the Board of Advisors on the topic. So we wanted to open up the floor on section 2A first. And then we'll move on to the other sections.

>> Can I ask a question?

>> BRIANNA SCHLETZ: Yes.

>> This is the next item on the agenda. But remember, we ended with other business yesterday, which was the resolution. Are we going to do that later in the agenda?

>> RICKY HATCH: Yes. Yeah. We are going to -- we're waiting for Camden because there's some legal questions that we want to discuss as a resolutions committee. And then as a board. So yeah, we haven't ignored you. He's just running a little bit late. Held be here. Thank you.

Could we post the section and have it be visible? We'll get that up.

So we're talking about section 2A. And looking for comments from board members. Secretary Simon?

>> STEVE SIMON: So I want to be very clear here. I don't see Leslie Reynolds here this morning from NAS, but what I'm about

to say is not an expression of NAS's opinion.

I would suggest, I have a strong suspicion we have multiple points of view in this room about the merits. Is it good or not good to require the documentary proof of citizenship? I would suggest that the most proper way to implement that policy goal is through an act of Congress. There is currently a vehicle for that in the SAFE Act going through Congress. I would argue regardless of what one feels about the merits of the issue, that, and not the EAC on its own without legislative authorization, is the best way to proceed. Let's put on the shelf our disagreements about that particular policy goal. I think the President should not be said that the EAC of an issue of this magnitude and importance should go on its own and implement that absent either an executive order that the courts upheld or an act of Congress. That's my personal view. Not speaking for NAS, the organization that designated me here today.

>> RICKY HATCH: Thank you, Secretary Simon.

>> Okay. I have a point of information. Literally, what role do we have in this? The President has issued an executive order. What is the role of EAC in discussing this? What clout do we or don't we have? What does our opinion or thoughts matter in this matter? Using matter twice in two different ways.

>> I'm not the general counsel. But first of all, we can take feedback from our boards and public and consult with the chief

election officers of the states on anything to do with the form on the NVRA. So that is the process that we're working under right now.

The Court did put an injunction on Section 2A. Legally, we can't talk about the legal aspects of this. Camden can address that. But we can still take feedback from the board and updating the form and your thoughts about the documentary proof of citizenship. You're welcome to make whatever comments you want regarding 2A.

>> Thank you, Mr. Chairman. So in Kansas, we were trail blazers in trying to do this many years ago. And were told by a court we couldn't require documentary proof of citizenship because we -- because of the NVRA. They didn't require it.

And in an ideal world, I would love if there was a way for the EAC to expand the policy so that it was up to the states whether they did or did not do this. But if the courts are saying that it's an all or nothing decision of the EAC, what should be required with the registration form, then yes, absolutely, 100% we should be requiring documentary proof of citizenship. I think the idea that only U.S. citizens should be voting in our elections is a core principle of our democracy. And if we're not discerning between citizens and noncitizens when we register to vote, it creates a huge burden on states on the back end to try to scrub their voter rolls after the fact because the NVRA also imposed the voters on us. Thank you.

>> ROSALIND GOLD: First of all, I want to say I very much agree with Secretary Simons' point, particularly in light of the fact that there are serious questions about whether the NVRA, which basically says for citizenship on the form, attestation is the appropriate way to go. It would seem to me that indeed, we would need to have a legislative change to go against what's in the NVRA.

I do know Secretary Simon, you were saying you didn't necessarily want us to get into a discussion of the merits, but I do feel it is go to note there have been many studies, I know we have a friend in the Brennan Center here, that really show having documentary proof of citizenship is not something that is necessarily accessible to different population groups. There are people -- I'm going to give an example. People who are born in rural areas where hospital records and vital statistic records are quite old and the ability of those people to get access to a birth certificate or some other proof of citizenship is very, very difficult.

And this will have a disproportionate negative impact on people who just for a lot of different reasons do not have access to those documents. Thank you.

>> RICKY HATCH: Thank you, Ms. Gold. Mr. Silva and then Mr. Adams.

>> ELVER ARIZA-SILVA: Good morning, everyone. This is Elver Ariza-Silva, Washington DC. I have a question in regards of the

citizenship. I don't know or I have no idea what kind of document the EAC or any other institution is going to require to prove that you all are citizens of the United States. Unless everyone has the blue passport. Because other than that, I don't see any other document. When you go to different organizations, agencies, or even election, they don't ask you that kind of documentation. Your real ID, that isn't proof you are a citizen of the United States. People who are permanent residents have real ID. And other folks with political asylum, they have real ID. If you go with different types of birth certificate, the question is which kind of document you are going to require to prove that I am a citizen of the United States. And if I am going to vote, I just vote last year, I did vote last year for my duty and for my first Presidential candidate and I did it proudly because I am a citizen of the United States. But I didn't recall not even once that they do ask -- I mean, when you complete the ballot, yes. But any other document, they didn't ask me.

So my question is what kind of document do we need to ask to prove citizenship? Is there any document that proves? It's just an open question. I just wanted to bring it up. Thank you.

>> RICKY HATCH: Good question. Thank you. Any thoughts on that? Okay.

Yeah, I think that's a to be determined.

We'll go to Mr. Adams and Mr. Moore and Mr. Spakovsky.

>> J. CHRISTIAN ADAMS: Thank you. Christian Adams. I will resist saying things people have heard over and over. My organization a number of years ago was tasked with defending the EAC in the legal women voters case versus Newby because the Justice Department wouldn't do it. That involved a submission by Kansas and other states in the approval to the change for the state form for their state. My question is what steps have been taken in the last ten years in order to absorb the next request so it doesn't meet the problems that the court of appeals articulated in that decision relating to the administrative procedures act?

So my question is you're about to get a bunch of requests from states to approve a change in federal form. What's different from ten years ago as far as procedures go?

>> First of all, that case is still live, believe it or not.

>> J. CHRISTIAN ADAMS: I forgot. You're right. I still get the ECF notices.

>> So we're still bound by not speaking about litigation, which unfortunately, that's the case.

But I will say not a lot has changed. We haven't really taken any action. We have discussed how we might move forward. And we did start taking some steps to simplify the form. And that may include instructions. But we haven't taken any real definitive steps at this point.

>> RICKY HATCH: Thank you. Mr. Moore?

>> GREGORY MOORE: Good morning. Greg Moore. I wanted to just raise a concern about the impact of the executive order on third party voter registration groups and their ability to continue to do the work they have been doing with this type of order that would basically make it next to impossible for them to conduct on site voter registration.

One of the promises of the NVRA is they would allow groups to go in the community and do the registration. That's what we do. When it comes to these type of orders, it's already having a chilling effect on people's willingness to try and go about getting ready for another voter registration campaign. I want to bring that up. It was one of the promises of the NVRA and also the states who are making attempts to try to cod identify some of the provisions of the executive order could also be on the path to putting some of this in law, like they are in Ohio. And that bothers me as well that there might be efforts while litigation is going on for states to try to cod identify some of the impact of this. So those are my two greatest concerns about this section.

>> RICKY HATCH: Thank you, Mr. Moore.

Many Spakovsky, please.

>> HANS VON SPAKOVSKY: I'm sure Secretary Simon will be very surprised that I agree with him. Look, there is no point in us discussing the legitimacy, the need for proof of citizenship because if we do, we'll be here for the next week and we won't

resolve the issue. The issue is what actions should or should not the EAC take in this? Okay?

Now, I actually did an analysis and published an article about what Judge Cotelli did with regard to the executive order. Who by the way, was the judge assigned to FEC cases when I was on the FEC.

There were five provisions in the executive order challenged. She issued a preliminary injunction on two of them. One of them has no concern for us whatsoever. And that was a provision that told federal government agencies that are involved in public assistance programs to -- and that also act as voter registration agencies to not provide -- to make sure that someone who is applying for public assistance is a citizen before they provide them with voter registration form.

The provision that affects the EAC is the one that in the executive order tells the EAC that it must issue new regulations that require proof of citizenship when using the federal form. For folks who don't realize it, when the EAC was set up under the Help America Vote Act, it was given no regulatory authority whatsoever with one exception. And the one exception is the federal voter registration form.

The courts are going to resolve this. The SAVE Act may resolve this. And my suggestion to the EAC is that -- oh, and I should point out because you were talking about Representative Proctor talking about the cases. Just so people understand, the

case law on this is that the Supreme Court said well, you can't require proof of citizenship if you're using the federal voter registration form. That does not apply when people are using the state voter registration form. Okay?

So what that means is that I think what the EAC should do, if anyone hasn't looked at the form online, there's a page for each state. And for each state, whatever the instructions are that the state has said for the use of the form. And I think the EAC, frankly, should stay out of this and just should say for whatever the instructions are for that the state promulgates different rules on this because they have different views on it, send them to the link for that state. Because in states like Arizona where they have now said that if you use the state form, you have to provide proof of citizenship, which you're able to do and you can vote in all elections. If you use the federal form, they tell you you don't have to require proof of citizenship. But if you don't, you will only be able to vote in the federal election. That's all perfectly legal. And I think what the EAC ought to do is simply on your web page where you have the form is you just put in a link and say your state may have specific instructions for the use of this form, go there and let the state deal with it and let the state deal with the legal consequences of it.

That's my suggestion. And I don't think there's any point in us today having a long debate about the issue of whether

proof of citizenship should or shouldn't be required, how it will be conducted, what the procedures will be.

Anyway, that's my two cents.

>> RICKY HATCH: Thank you, Mr. Spakovsky.

Any other final comments on this section? Representative Proctor?

>> PAT PROCTOR: Let me associate myself with Mr. Spakovsky's comments. But I just as we leave the topic, I will say the situation as it is now creates unfunded mandates for the states. We talked a lot yesterday about the expense of elections and the inability of the federal government to really help with that because most states don't want help from federal government on this.

If you decide to go the Arizona approach right now, you have to spend all the money required to basically have a bifurcated registration system to have some people who only vote in the federal elections and some who vote in all of the elections in the state. Like Kansas, decide to go through the back end and try to scrub your voter rolls after the fact to remove noncitizens, which noncitizens are getting on the voter rolls. We found 80 last time and 20 may have voted. Then you have to go through the expense of that. So the approach of just sending it back to the states and letting the states do what the states deem through their legislatures I feel is the best approach.

>> RICKY HATCH: Okay. Camden Kelliher, the general counsel, is here. So I will turn it over to him.

>> CAMDEN KELLIHER: Good morning, everyone. I would like to first sincerely apologize for my tardiness. I have a love hate relationship with Amtrak in that they love to be late and I hate it.

I am here. I don't want to recap or duplicate prior conversations. My understanding is we're through 2A. And then 4A and 4B. So we're left with section 7 generally -- I'm sorry.

So to go to then 4A, which in the executive order requested that the EAC condition the receipt of grant funds. Primarily on compliance with section 2A which we have covered. With section 4, I point out the fact that the targeted section from the executive order was on 251 requirements payments. Which the EAC hasn't received in the appropriations since 2018.

And then moving on to section 4B. Let me pause on the grants section. If there's any questions on that. Because 4B brings up I think what is a larger topic of conversation.

>> Congratulations to you.

>> CAMDEN KELLIHER: Thank you.

>> GREGORY MOORE: Just a quick question. Before we leave this section, are you saying that because the dollars are not -- because it's not a lot of large dollars from the 2018 appropriations, we don't have to worry about it?

>> CAMDEN KELLIHER: No, I'm sorry. It says the condition

represent of grant funds. The sections that it instructs the EAC to implement that of HAVA are 251 requirements payments. Don't quote me on the exact, but I believe the last year of requirements payments was 2011. Recent what we call election security grants are through appropriations. And that appropriations language and that kind of congressional creation of a grant started in 2018. Which brings us to the most recent allocation of grant funds, which is the 2025 CR that continued the 24 general funding. And that was inclusive -- I'm sorry, the foundation of those grants is sections 101, 103, 104 HAVA, not 251, which is the language of the executive order that says the condition the receipt of funds.

We often talk about with EAC grant funds too, state plans and certification requirements. That's laid out for section 251 and not a reason on the receipt of funds for what we call election security grants under recent appropriations.

So it's the EAC's assessment that the language of the executive order didn't supersede the congressional mandate to fund under 101, 103, and 104.

Thank you, Greg.

Okay. Then moving on to section 4B of the executive order, which asks the EAC to revisit the Voluntary Voting Systems Guidelines. Asks that to be done within 180 days with kind of a close eye on bar codes and QR codes.

I believe that yesterday you all got the process for the

VVSG, the role the boards play in the VVSG process. The executive order says also consistent with applicable law. So the EAC views that as applicable law in updating the VVSG 2.0.

It does ask that at that EAC consider and move on the desert if I indication of equipment not up to standards and we're balancing the options as to how to, one, comply with the VVSG update, and two, move that general process forward.

Commissioners, I don't know if you have anything to immediately add, if we want to open it to question and comment first. But that is section 4B generally.

>> RICKY HATCH: I guess -- my question you mentioned the concept of de-certification, which I don't know if I see that. Is that implied in there? How do you come to that mandate or suggestion or order to de-certify?

>> CAMDEN KELLIHER: The executive order says to rescind previous certifications, which with the mechanisms under the VVSG, that would be theoretically de-certification, though that is not conclusive, it's just the term used. And I think that's the sort of feedback that we are looking for. We'll go left to right. My left. Your right, my left.

>> As I read rescind the certifications, to me, that's if you had certified somebody under VVSG2, you would rescind that and have the new requirement for not using bar codes whatever. I don't read that to say that every piece of voting equipment in the United States has to be de-certified. Open to

interpretation, I guess. But that's how I read it.

>> CAMDEN KELLIHER: We appreciate that.

>> Do we want to make sure everybody who is a member understands what the point of this is? Does everybody understand the point of this? I think it's worth a quick explanation.

I was on the Fulton County election board in Atlanta after the 2000 election. The state, because of what happened and because of the reforms, switched to all electronic voting machines. Okay? So yet the only paper ballots were for people voting absentee. In every polling place, all you had was DREs.

Just before the I think the 2020 election, Georgia switched out all of its machines and got new ones. Why? Well, because the public and members of the legislature were extremely suspicious of and feared that with an electronic voting machine, because there's no audit trail, you have no idea whether the machine is actually recorded your vote the way you have touched it on the screen.

So Georgia switched to the new equipment, which so many people are building, in which you cast your votes on the electronic DRE, and it prints out a paper ballot, which is a list of the names that you chose. And the whole point of it was that by looking at that paper list, you can then see, yeah, it correctly listed the names of the candidates that you selected. And then you take that paper and you run it through a computer scanner, just like you would an Opti scan ballot. Therefore, you

have an audit trail.

But the concern that has arisen, again, from the public and legislators, is that some of these machines not only print out with a list of the candidates you have chosen, but there's a bar code on it. And the concern was well, when you're running it through the computer scanner, is it actually reading the printed out names that you as the voter checked? Or is it reading the bar code, which is a summary of those? Well, if it's reading the bar code, once again, you have no idea whether the machine has actually recorded the votes, the names that you have.

And the point of this redoing the standards is to make sure that when that piece of paper goes through the computer scanner, it's recording the printed names that the voter was able to check and not reading the summary bar code.

So that's the point of this. And I have to say, whether or not that's an issue, whether or not malware and Trojan software can get in and make the changes is not the issue. We don't want the public to distrust that equipment. The only way to do that is to have voting equipment that everyone can say look, it's reading the actual names printed out, not the bar code on the paper ballot.

So I actually think this is a good part of this executive order and I think the guidelines ought to be redone, the standards ought to be redone so that the equipment that is being sold and used for voting meetings this standard.

>> Thanks. Lucas and I were joking they took ours away. Eric Fey from Missouri. First, a question for Camden or the commissioners. Has this provision been challenged in court yet? Or what's the status of this provision?

>> CAMDEN KELLIHER: Yeah. It's part of the overarching challenge. So it is subject to active litigation. But it wasn't subject to the preliminary injunction questioned then.

So currently active, but subject to litigation.

>> ERIC FEY: I appreciate that clarification. And just a comment that I don't know after that explanation, I'm not sure if everybody in the room is aware of how wide ranging the implications of rescinding the certification for this type of voting equipment would be. I think almost every manufacturer of ballot marking devices uses a QR code, except for maybe Hart, to my understanding. I'm looking around the room here, Hennepin County, South Carolina, Jefferson County, Los Angeles county, all these places I'm thinking of using ballot marking devices with a QR code in the voter verified paper trail that Hans just mentioned.

So that's, again, a huge implication and ramification just to mention the scope.

And I think on the executive board call we had not too long ago, somebody from EAC mentioned you might have statistics as to how many states or jurisdictions currently have this type of equipment and use. Maybe you do, maybe you don't. If so, this

might be a good time to share it. I want to mention this is a big deal for almost the entire country. And I don't see any money coming to replace any of this stuff.

>> Thank you, Steve Simon from Minnesota. And here I am speaking pretty confidently on behalf of the organization, the National Association of Secretaries of State. And it's a question understanding that you can't give us legal advice, so we will have to navigate that.

But I think many states, probably most states, I'm guessing, are like Minnesota in that by under state statute, certification is a two-step process. It is, first, a federal certification. And then and only then is it eligible for a state certification. And then state. First, it has to be certified federally. Second, we have to do our own thing in public view, et cetera.

And my question is, and I know you can't give legal analysis or legal advice. To the best of your ability, would you advise states that are worried that most or all of its equipment could be rendered effectively illegal, would the states then be put in the position of having to amend their state statute? In Minnesota's case or other states, maybe one way around null identifying elections equipment would be for us to go to our legislature and say look, change the standard so that you either grandfather in previously certified equipment or somehow cut out the first step.

I'm riffing here because I'm trying to understand the downstream effect. I understand I'm putting you a little bit in a awkward position because you're not our lawyer. But do you have a sense of how that would play out? Or maybe the commissioners do. I would invite them to advise states about how they would deal with that legal landscape.

>> This is Commissioner Palmer. I can't give you legal advice. But we are going through the procedures and what are the procedures as we discussed on amending the VVSG, what would that mean.

I guess the first thing I would do is point out that the language of the EEO really lays out that you shouldn't use the bar code for systems other than for voters with disabilities as an accessibility tool.

But this is a standard tool that we test to. So there's a couple of options. One is to slightly revise 2.0 as an RFI, an interpretation that if a manufacturer wants to bring in a system with a bar code for voters with disabilities, they can do so.

If they want to bring in a system without the bar code, they can do so. And we'll test them for the purpose of which they're serving.

The states are generally the chief election officials, sometimes it's in the hands of the locals, on how many accessible machines or what sort of features they're going to purchase. For example, in Florida, when one system came in, it

was really relegated for voters with disabilities. And that was more of a certification decision versus a policy decision.

But again, those decisions on how many accessible machines or what features to put on your systems when you purchase them, that's a decision of the states.

So we have the option of slightly revising 2.0. We have an option of going through the VVSG process because there were a number of RFIs, requests for information, through the test campaign for the 2.0 systems that that would just -- months ago, we brought that to the technical guidelines committee and said look, we want to have regular order on the VVSG. We never want to get behind again. And here are some of the errata and other RFIs.

So here we are today. So going through the VVSG process is a possibility to sort of make that part of a 2.1. And that would include this board because we would need to bring that to EAC with consultation with NIST, which that is ongoing now. It would come to the TGDC and then to the standards board and the Board of Advisors.

And there are ways to make that process very efficient. We do things at the same time, parallel, not necessarily in order. And so -- which the law permits. And then we could go through the VVSG process where this board would then have additional say on those requirements.

So those are the options. And it was good discussion I

heard earlier on the rescinding the previous certifications. How do we move from 1.0 to 2.0? That's one reason we had the discussion yesterday. And how do we get those systems to come in for testing to different aspects of 2.0 so we feel comfortable we're meeting the requirements of the executive order.

>> Follow up. So to use your excellent analogy yesterday, which I told you yesterday I love the F-16s versus the F-22s and F-35s. Yesterday, it was look, it was sure, we have F-35s. But we're not moth balling the F-16s. We're still using them. They don't have all the bells and whistles, but they're part of the force. As I understand this executive order, at -- there's the possibility that we would be moth balling the F-16s or the F-22s. In other words, we would say if it's not an F-35, it's grounded. And that's just a concern. I just want to say for the record, that's a concern for states in terms of how we would navigate that.

So I just want that to be clear for the record. But Commissioner, I appreciate your explanation.

>> I did want to add to the process, which I maybe should begin with, and it was covered briefly. But both the language of the executive order and the general VVSG process, the executive order asks that we update the standards first. And then comes the VVSG process required by law.

So reading everything strictly as it is or interpreting it as move on it now and then de-certify all of the systems, that

is still preceded by another review by this board for a minimum of 90 days. That starts with the TGDC and comes to the EAC. You talked about the downstream or downwind, it depends on what you're going for, I guess. When we go through them, the EAC understands that is a voluntary process and it is ultimately the state's decision to write that into state law. So this is the opportunity to consider that type of implementation as would be the general VVSG process. So when we go through the VVSG, this is a voluntary federal standard. And the inclusion to state law is not wholly separate, but separate from our VVSG process.

>> Yes. We'll go to Commissioner Hovland. And then senator Padilla arrived. We will put a pin. I have Ms. Simons, Ms. Gold, representative, Proctor, and Mr. Vebber. I have your names. We will pick this up after. Commissioner Hovland?

>> BEN HOVLAND: I don't know if this is a quick comment. I will try.

To Mr. Fey's point earlier, I want to flag that as I understand it, the executive order is very specifically about bar codes or QR codes that contain votes. And so I did want to flag that there are other bar codes or QR codes on or that are used by manufacturers sometimes for ballot style, sometimes for lining up timing marks, et cetera. There are security measures included in those. That is sort of a separate portion.

I also think that it's useful to sort of baseline we

haven't seen a certified 2.0 system yet. And the 2.0 standard is different than the 1.0 standard in this regard. With the 2.0 standard envisioned or as it was adopted, it said that if a QR code or a bar code was used that contained votes, that there also had to be a human readable component. And that that bar code or QR code had to be open source so that somebody would be able to scan that on their phone. Again, as highlighted yesterday, there is literature and conversation about whether or not people check it. But nonetheless, the standard was at least to make sure that there was transparency in that.

And finally, to Camden's point earlier, because of the nature of the Help America Vote Act and the role of the Federal Government in elections, the nature of the Voluntary Voting Systems Guidelines is that the first word is voluntary. And so we have seen most states use the Voluntary Voting Systems Guidelines in one way or another. There are real economies of scale and efficiency. Certainly, since we have had the quorum restored and we have seen our budget finally get back to 2010ish numbers, we have invested heavily in technology in testing and certification. We know that that process, both the VVSG and our testing certification program are a product that the states need to utilize in order to get the maximum efficiency out of the whole thing.

So those have been guiding principles for us. But again, we see states that use the VVSG entirely. We see states that use

it as a baseline and then do testing above that. We see states that have their own program. But you realize -- utilize our accredited laboratories. And we see states that don't participate at all.

So there really is an array of options there. But again, that was how HAVA envisioned it. And again, for our part, it's critical to have a solid testing and certification program that people can depend on and people want to utilize. So we have been working hard to continue to bolster that.

>> RICKY HATCH: Thank you, Commissioner.

Okay. We will do a slight alteration. I have the list of folks who will continue this discussion after Senator Padilla. If you're like me, you will to write down your thoughts.

Before the break, we will do an you might be an EAC board member if you have corrected someone's use of the term mandatory when refers to the VVSG.

Okay. Let's take a ten-minute break. So we will be back and start at 10:00 a.m. with Senator Padilla. Thank you.

Members of the resolution committee, would you come meet over in the corner, please.

>> Could members return to the table, please?

>> RICKY HATCH: Okay. Welcome back from our break. Thanks for

being so prompt. We really appreciate it.

I would like to recognize Commissioner McCormick to introduce a special guest, Senator Padilla, the ranking member for the U.S. senate committee on rules and administration.

>> CHRISTY MCCORMICK: Thank you, Ricky. And welcome, Senator. Senator Padilla is the first Latino elected to represent California in the U.S. senate. He serves as ranking member of the senate committee on rules and administration and ranking member of the subcommittee on border security and immigration. He serves on the energy and natural resources, environment and public works, and budget committees, as well as the joint committees on printing and on the library.

Before coming to the U.S. Senate, he was elected California secretary of state, which is when we got to know him. The first Latino in state history to serve the office. And he served on the Los Angeles city council and on the California state senate. Thank you for joining us. I will turn it over to you.

>> SENATOR PADILLA: Thank you very much. And good morning, everybody. Are we awake there? Need extra coffee? Looking around the room, I'm getting flashbacks to NAS conferences. I know Leslie is here, Steve Simon is here. The joint NAS conferences. But I'm thrilled to be here not just with my senate head on, but as a ranking member of the senate rules committee. As you all know, I'm sure my predecessors have come to pay their respects

as well. The senate rules committee has the jurisdiction over the federal election administration side of things. For my friends back home wondering about the fight for voting rights and protecting our right to vote, that's the jurisdiction of the judiciary committee, which I also serve on. And I'm so impressed that the light goes out. There we go. Just for emphasis. That was just for emphasis.

So I say that just to underscore that I have both pieces covered, which means a lot to me. Voting rights and the security accessibility of our elections is a top priority for me since I joined the Senate in January of 2021.

Of the many things I wanted to share this morning, my biggest message is actually just thank you. Thank you to all of you. To the commissioners, to the staff, to the advisory committee, to all the stakeholders that are here because nothing can be more fundamentally important to our country, not just our past or present, but our future than free and fair elections that includes access to the ballot, that includes security, that also includes public confidence and trust in the process.

So as you heard through the introduction, this is not my first foray into the subject matter. I'm proud to have served as California secretary of state for six years prior to coming to the Senate. I have nice things to say about Florida, but California now has more voters on the rolls than there are people in Florida. Just to give you a sense for the scale.

People know California is the most populous state in the nation. People know California is probably the most diverse state in the nation. So imagine the complexities that presents to election administrators and elections officials. Not just at the state level, especially at the local level when it comes to administering elections, keeping our elections free and fair, whether it's the big populous counties like Los Angeles County. I see Dean Logan here. I have to make sure to give him a shout out so I don't get moved to the inactive voter column. I still have election jokes after all these years.

Or the small rule counties. And I will talk about the unique challenges for small rule counties.

And I also want to give my background. Yes, I too am like a lot of us around the table, old enough to remember pre-HAVA days. Right? It was -- and even before the HAVA days, the Florida election in 2000. No joke, I literally woke up the next morning from having had a dream that I was called to Florida to help oversee the recount. Because I had managed a few legislative political campaigns before that. So I knew the intricacies of voter registration to the canvassing and everything in between.

So after HAVA, think about the political times we were in then. HAVA was passed in an overwhelmingly bipartisan basis. Can any of us imagine an election proposal going through Congress right now on an overwhelming bipartisan basis? Hard to fathom.

That's what we still have to strive for. This isn't partisan. Knowing the challenges of the political climate we're in, all the more reason to come and say thank you for your service and thank you for staying focused on the mission of the EAC.

Going back to the 2000 experience, back then, Dean, we were still doing punch card ballots before those were retired before the new swanky system that we have today. I vote by mail. I make it easy for you.

From that experience, serving in the legislature, pushing a couple of proposals and getting elected to California secretary of state, I had a deeper appreciation for the things that enabled online voter registration. The model we have in California that makes it easy for people to register and actually cast their ballot and improve election security while we're at it.

I have tangible experiences that underscore for me the work of the EAC, the importance of HAVA, and staying focused on that in a nonpartisan or bipartisan manner.

I mentioned earlier some of the smaller counties, frankly, across the country, there's smaller and underresourced, not sufficiently resourced counties and states when it comes to administration. I bring that with me to the rules committee. And with even more passion, say we need to support elections with funding.

So going to bat for funding for the EAC, the election

security grants will continue to be a priority for me. Because I get the evolving --

[Applause]

I get the evolving threats. I was secretary of state in the 2016 cycle when we first started getting phone calls from the secretary of Homeland Security about this foreign interference of elections and the crash course that secretaries and others got on scanning, pinging, just general cyber security.

Do you know what Albert sensors are? Let me tell about Albert sensors. And yes, we have them in place in California.

2016 was the beginning of a new era of challenges in elections. And flash forward to 2020 and 2024, you know how many elections workers and volunteers that we rely on in every election cycle are choosing to move on, to retire, or to not sign up any more because of the harassment, because of the threats that they're receiving. It's a sad state of affairs. But all the more reason we need to dig in and weather the political climate that we're in, but stay focused on the mission. Our democracy depends on it.

And by the way, the foreign interference in our elections is not just foreign threats anymore. You have a lot of domestic sources of misinformation and disinformation. And we will continue to rise to the task.

Not to put more pressure on you, but you have heard there's cuts at CISA. Which I'm against. It's the opposite of what we should be doing. I acknowledge it, as you do. It means there's going to be more pressure and more need for the EAC to step up in your support role for state and roll officials across the country. Preserving not just the free and fair elections, but the public trust and public confidence in the elections and the outcomes is paramount. So count on me to be a partner in the effort. Count on me to do what I can to help support the cause, whether it's to grant the funding for the EAC itself and do what we can to preserve the independence of the commission. I know the commission is at times a target of folks who say not only do I want you to do this instead, but I want you to do it my way instead. And deserve and need to be seen as truly independent in doing the good work of the public.

The last thing I will say is I know we're not in the verge of an election, we're not doing E minus anything right now. But from my experience, and I think it still holds true, while the rest of the world forgets about elections and election administration when we're not in election season and the political ads are not on television, as soon as one election is over, literally the very next day, the preparation begins for the next cycle. And as we sit here today, primary season less than 12 months away for the midterms. So I know the work never ends. The mission is as important as ever. And look forward to

working with all of you and supporting you in any way that I can. Thank you very much.

>> Thank you. Are you willing to take some questions if people have them?

>> SENATOR PADILLA: Sure.

>> Okay. Questions for Senator Padilla? Do we have questions anyone? That was from the previous discussion.

>> If no one is going to ask a question, I want to make a comment. I want to thank you for 2016. In 2016, I had asked the Obama Administration for an airplane and they promptly said no. But took commercial flights from Eric Fey's jurisdiction in St. Louis down to Phoenix and up to California to watch the returns all in one day. And you and your staff were very gracious and hosted me really and I want to thank you for that. I want to do look back on the last eight years and say thank you for that.

>> SENATOR PADILLA: I remember that vividly. One of the adjust -- as a political figure. All of the other offices that held on election night, what party am I in? Am I on the ballot? Am I with friends? And then I quickly learned that secretary of state, no, when the polls close, we go to work. So I'm in the office. And actually throughout the day, you came in time to see me work the voter hot line, fielding calls from voters and troubleshooting throughout the course of the day before the polls closed. The reports from LA County started to come in

quickly that night.

It was a fun experience.

>> Senator, thank you for joining us. I have one question for you. So you were secretary of state. Now you're in the Senate. You have gone through the budget process. What's your advice to not just EAC, but the election officials in how to navigate that and requesting moneys for election and election administration and what should we be focusing on?

>> SENATOR PADILLA: I think a couple of things. First of all, don't be shy. And the two bits of advice that I would give on effective advocacy is, number one, bring real world examples. Because I know we used to get them in California. Some of the counties are better resourced than others. So the smaller rural counties tend to be a lesser resource. But the threats are the same. So how do we keep up with the threats? Maybe it's an outdated voting system that we're trying to modernize. We don't get into VVSG. We'll save that for the next time. Or maybe it's staff and technical training. Whatever the need is, bring the specific examples to members of the House and members of the Senate to explain the need.

To the extent that we can do it on a bipartisan basis, not that you're all partisan, but red states and blue states or perceived red counties and blue counties say on this, as administrators, we agree here's what we need. The majorities are going to shift from time to time. But the need remains constant.

So trying to underscore that this isn't about helping one party or the other or putting our thumb on the scale, this is about proper election administration.

>> Thank you.

>> Ms. Simons?

>> BARBARA SIMONS: Senator, thank you for coming here and for your comments.

In my personal capacity, I thought I would mention the topic that we are going to be discussing after you leave, which is the fact that the commissioner's pay here has been frozen for many years because of Presidential directive. And again, in my very personal capacity, I would appreciate it if there was something you could do to help deal with this issue. Because they really are being significantly underpaid.

>> SENATOR PADILLA: Okay. Appreciate hearing that.

Ms. Walker?

>> CHRISTY McCORMICK: Thank you. Chris Walker, Jackson County clerk, Oregon.

And not really a question. Just a respectful reminder that I know we all concentrate on Federal elections. We have got the cycle of the presidential and then the gubernatorial two years later. But let's not forget our state and local elections are equally as important at these elections. And that, of course, others, we have a different cycle in Oregon than what maybe St. Louis does or Missouri or anyone else. But let's not forget the

importance of those. Our job doesn't end and start every two years. It's we have ballots out right now for our May special districts elections. So just wanted to give a shout out and show of support on that. It's nonstop. You know that.

>> SENATOR PADILLA: I do. I do. Do we still have municipalities in California with odd year elections?

>> We have a handful.

>> And actually Virginia and New Jersey have gubernatorials this year as well in the off year.

>> SENATOR PADILLA: Work never ends.

>> Other questions? Comments? Ms. Gold?

>> ROSALIND GOLD: Rosalind Gold, educational Fund. Senator, thank you so much for joining us. And for your leadership not only on election issues, but a variety of issues. I'm a Californian going all the way back from city council to secretary of state and Senate. So you talked about concerns about interference in elections. And yesterday, we had a really good robust discussion here about the best way that many election officials feel they can combat misinformation and disinformation is actually to be proactive and preventative and not to do this on a hey, we have to respond, put yourself in a position where you're responding to things in realtime.

Do you think policy makers are aware of the fact that this is a process to combat misinformation and disinformation? And how persuasive do you think that is in terms of highlighting the

need for funding?

>> SENATOR PADILLA: Reminders could be very powerful. Having been secretary of state and living, breathing elections on a daily basis is one thing. In this capacity, I deal with all kinds of issues day in and day out. So I'm not always the one that will see it in a social media feed or whatever is happening back home. Especially since we're physically here in Washington four or five days a week and you're getting home on the weekend and catching up.

If and when you identify some of the stuff, bringing the tangible examples is an important reminder.

And yes, going back to the secretary of state days, one of the things that I thought was more effective was being proactive, which was putting the information out there, reaching out to voters of who the reliable sources of information are. So that when they do get hit by the maybe not so accurate information, intentional or otherwise, they can wait a minute, who is this coming from? And let me double check. They know to call the county, go to the secretary of state website for the reliable, official information. Being proactive and flooding it that way can help with the disinformation, misinformation activity kicks up closer to election day.

>> Ms. Kagan and Mr. Simon. And that will have to be our last question.

>> CHERYL KAGAN: Thank you. Cheryl Kagan, state senator from

Maryland and a representative from NCSL, national conference of state legislatures.

This body spent a lot of time yesterday talking about the accuracy of our voter rolls. There was a discussion about using credit reporting agencies which a lot of us have deep concerns about, and the decline of ERIC, the electronic registration information center, which offers a great interstate information sharing has become partisan, shockingly partisan in a way that perplexes many of us.

I want to mention, A, we had a lot of conversations. And B, we need a solution. Everybody wants voter rolls to be accurate and updated. It is impossible to keep them updated as people move, die, and become of voting age every moment.

I don't know if you think there's a will in Congress to step up on this. I do think it's an important and pressing issue for not just the accuracy, but also for voter confidence.

>> SENATOR PADILLA: Again, sad state of the climate that we're living in. It wasn't that long ago where a new secretary of state, one of the first questions is are you going to join ERIC? And it was raised with excitement and became a goal and objective of Democrats and Republicans. So to see the state that ERIC is in now is sad.

I will use this as an opportunity to also go to bat for automatic voter registration. It would single handedly increased the folks on the voter rolls in California, but the process of

people applying for or renewing their driver's license or state ID increased in accuracy. The voter rolls in the states are automatic registration are more up to date because of the interaction with eligible voters. That's been one of the best tools.

And another argument for automatic registration, not just making it easier to register or increasing the number of people on the rolls.

To really get into the weeds here, we may need to look at metrics. As turnout has gone up because registration has gone up, and if you do the numbers, a numerator and denominator debate. And reporters will ask sometimes it looks like turnout was down in California for this election cycle. Why do you say that? The percentage. But look at the numbers. The total number of ballots cast continues to go up.

So we have to figure out a different metric on turnout to be more accurate in terms of what's really happening.

>> STEVE SIMON: Thank you. Good to see you. We miss you as a colleague as secretaries of state. But we're really, really proud of you.

Question. Can you say anything, do you have an assessment of the Senate's appetite when it comes to HAVA funding? We saw a graphic or a slide yesterday, it's obviously tapered off considerably in recent years. There are a lot of reasons for that. Do you have an assessment of what that appetite is? Is it

on hold? Do you think there's the prospect that we might see a spike as 2026 approaches or another round of HAVA funding?

>> SENATOR PADILLA: I'm one of the eternal optimists in the Senate. It's encouraging. I think there's a good chance. And actually I generally think there is. It's been a while since there was a meaningful investment. In my ideal world, from my secretary days, a good amount and more consistent federal funding for elections, not a spike one year and then it goes away for five, ten years, and then a spike and it goes away. Something more reliable that you can plan around would be more helpful over time, number one.

When I came in to the ranking member position, the chairman of the committee is Mitch McConnell. So we met. When it comes to how to modernize and reform elections, we probably have different views. When it comes to funding, we have agreement on that, as much as I may want to make it easier for people to register and cast ballot, more options, et cetera. He may have a little bit different thinking. When it comes to funding, I think we're kind of on the same page.

The last thing I will mention, I know you have the rest of the agenda to get on to. The contrast. And we can respectfully disagree, he and I. For the prior several years, Democrats in the majority and there was the freedom to vote act and the other election modernization proposals that Republicans didn't support for various reasons. But what I heard the most was the federal

government shouldn't be telling the states how to run elections. States run elections. We shouldn't federalize elections. This isn't a nose under the tent.

Now you have between the SAVE Act in Congress or the President's executive order, people at the federal level saying this is what states should and shouldn't do.

To his credit, Mitch McConnell, for all the same reasons the concerns about federalizing elections, he's against those efforts. So again, that's maybe not the most encouraging things to hear this morning. But another area where we're aligned. So that and funding.

>> Thank you so much, Senator Padilla. Thank you for joining us.

>> SENATOR PADILLA: Keep up the great work, everybody.

>> RICKY HATCH: Okay. Thank you. Let's go back to our prior discussion. And we'll just spend probably just about ten more minutes on this topic before we get into our discussion on priorities for the EAC.

So the commenter line that I have is Ms. Simons -- okay, we'll put her on hold. We'll go with Ms. Gold and Representative Proctor. Ms. Gold, please.

>> ROSALIND GOLD: I cannot resist the temptation to respond to the you really know you're an election official if. So I will do this quickly. You really know you're an election official if you understand that hash validation has nothing to do with your

state's debate over cannabis regulation.

The only comment I wanted to make, and this is following up on what Eric had mentioned regarding the implications of this part of the executive order for localities and their equipment and voting systems. Which is I just had a question about in terms of current audit procedures, we have talked about all the different things that are audited, are part of the audit procedures do any checking of the bar codes correctly providing the information? Comparing the bar codes with the way the person actually casts their ballot so that there is a sense of feeling that those bar codes are reliable? And that's a question I have about that.

>> RICKY HATCH: Thank you. Yes, the audits, both the logic and accuracy audits, as well as the post-election audits, which virtually every county in every state conducts, they do provide that service to validate that the ballot as it was marked was actually tabulated in that manner.

Any other thoughts from the commission or others on Ms. Gold's question?

>> Yes. I'm sorry, but it's not possible to do that. And the reason being that most audits, they don't look at all of the ballots. If you're in a large jurisdiction where a million ballots have been cast, they can't look at every single ballot to ensure that the bar code that summarized the votes the person cast matches what's printed out. And in fact, if a bad actor

wanted to introduce some malware into the computer that changed that, they're not going to do it to affect every single vote. In a close election, they can, for example, there was a race recently in Texas, I think Harris County, a million votes cast. It was decided by 1,000 votes. If you put in a piece of malware that is only going to affect one of every 1,000 votes, depending on how big the jurisdiction is, you could potentially get away with it without it being detected. An audit that does a random sampling, maybe it will detect it, maybe it won't. But the 100% detection rate in an audit is not the case.

>> RICKY HATCH: Okay. Thank you.

Ms. Simons?

>> BARBARA SIMONS: Okay. Barbara Simons. I wanted to agree with the comment that Hans made about the bar codes. I think it's a mistake. I mean, the problem with the bar codes on ballots is that voters can't verify them. I think even open source. It's very unlikely that voters are going to verify them.

I'm also concerned about making changes so quickly that there will be chaos in '26. So on the one hand, I would like to see this change made, speaking personally again, I would like to see the change made. On the other hand, we have to take into consideration what election officials have to deal with and a change like that would be disruptive.

It would be nice if the government if they're going to make the changes would provide funding so that people have the

money to upgrade the systems to meet the new standards.

>> RICKY HATCH: Thank you. Representative Proctor? And then Mr. Vebber.

>> PAT PROCTOR: Thank you. I would like to respond to the most draconian interpretation of what an executive order says. I think somebody used the analogy of the F-16 versus the F-35 to say that the requires that we moth ball all F-16s. I don't read it that way. Section bravo 2 is clearly referring to the new standards in bravo 1. As I understand it, all this requires is that you rescind the previous certification of VVSG 2.0 systems, when we have heard there are zero systems certified under 2.0.

So this idea that we have to go back to clay jars and colored rocks because of this executive order is not my interpretation of this order or the intent of this order.

The other thing I would say is have been said, first V is very voluntary. If a state feels like this is a draconian requirement, they're free to go their own way and use systems that don't apply to the standard.

And the final thing that I would say, and in the interim, I was looking at the EAC best practices that we talked about yesterday. It talks extensively about the best practice being a paper audit of the ballots to verify that the count of the machines reflects the will of the voters as expressed in their ballots, whether done with the ink pen and the coloring in the dot scantron style or a ballot marking device marking the

ballot.

So what we do in Kansas now, I know somebody invoked Johnson County. They love the ballot marking device. It produces both a machine readable bar code and a human readable tally of what the voter intent was so that the voter can look at it before they put it in the vote count machine. And when we go back and do the paper audit of the ballots, we can look at the human readable form, not the bar code, to see what -- to see that the voter intent matches what the machine recorded in the vote count.

And so I think that it's not a huge change that instead of the ballot having the bar code and the human readable form, it would just have the human readable form and that's what the machine would scan. It's my understanding that ES and S is already developing a ballot marking device to comply with VVSG 2.0 that meets the standard. So I would caution everybody in this room not to kind of revert to the most Draconian reading of this executive order that we have to discard all ballot machines in order to comply with this when we go to the new standard.

>> Thank you, representative. I needed to respond directly to that. I'm looking at the language of little Roman numeral 2 and the very last phrase, which says and to rescind all previous certifications of voting equipment based on prior standards.

>> That is a full sentence. That is the last clause in a full sentence that talks about within 180 days of the date of this

order, the EAC shall take appropriate action to review and if appropriate recertify voting systems under the new standards established in section B1. So the rescinding all previous certifications under the prior standards refers to the prior VVSG 2.0 standard referenced in B1. In my reading, that does not apply to VVSG1.0 or any of the subsequent 1 point something standards. That's talking about the standard 2.0.

>> RICKY HATCH: Thank you. Mr. Vebber and Spakovsky and Wilcox.

>> LUCAS VEBBER: Thank you. To build on what Hans said, much of the focus has been on clerks and the vital role that they play in conducting these elections, and rightfully so, of course. But our elections need widespread acceptance in the public. Public confidence is key to making the whole system work. It simply won't work without that confidence.

Here, as Hans articulated, the executive order identified a problem, which impacts trust in election results. I think at the very least where the President of the United States identified a potential problem and vulnerability in our election system, the commission should take that seriously and take action to resolve that issue. And I hope that they will. And appreciate the opportunity to comment.

>> I'm not going to add to what Pat said. He's right. I think we're overcomplicating all of this. No equipment has been certified to the 2.0 standards. You guys can revise them if you

want to issue a 2.5 that adds in this provision, you can do it.

And as commissioner Hovland said, these are voluntary. No state or local is going to have to change their equipment. They can accept them or not. And they will have the -- if you have changed the standards and companies are started certifying, for example, to meet 2.5, which has this provision in it, then locals can make their own decision. Do they want to buy equipment only certified to 1.0? Or buy equipment that's certified to 2.5 which now has this provision in it on the bar codes and leave it up to them. To me, I think we're overcomplicating all this. And I think the only thing that you all need to do is try to come up with a standard that people with test their equipment to that meets this.

And since all the testing labs are in my hometown of Huntsville, Alabama, I will be happy to go there.

>> WESLEY WILCOX: From a technology perspective, if you believe that the accuracy of OCR is better than bar code scanning, I think you're incorrect.

Second, the current ballots optical scan ballots, the scanners are not reading the human readable portion of that ballot. They're actually reading the oval, which is not the human readable part of it.

And finally, from an ADA perspective, if bar codes are okay for ADA compliance and not for everyone else, are we saying that our ADA votes are less valuable to us?

>> RICKY HATCH: Thank you.

Okay. We are ready -- oh, please. Mr. Logan, go ahead.

>> DEAN LOGAN: Just for informational purposes, I don't know if this information is available now. But it would be helpful for all of the board to know the average time frame for taking a system through certification and the average cost of doing that.

>> RICKY HATCH: Thank you. Did you want to respond to Dean's question?

>> Yeah. It's very significant.

Well, I appreciate -- are there any other comments on that interpretation of B2? Because if this doesn't impact 1.0 systems, that standard, this process could be a lot smoother. So we're obviously going to consider that.

>> CATHY DARLING ALLEN: Camden, are you able to weigh in on that at all? I always love to ask lawyers.

>> CAMDEN KELLIHER: I'm not going to weigh in at this time. But I think that's helpful and we're talking about the way a sentence is written. So I want to say that is part of the EAC internal process and the fact that there was even a back and forth and a wonderful conversation about it is the advice that we need from the Board of Advisors, but not something that I am going to conclude on at this time.

>> RICKY HATCH: Mr. Knapp, please?

>> HOWARD KNAPP: This is really, really quick. Number one, really a question about the entire concept itself. Will any

policy changes or new policies the EAC considers be put out for public comment before implemented?

>> CAMDEN KELLIHER: Yes. Specifically the VVSG follows the additional board consultation and that process always requires that there be a public hearing and an opportunity for public comment. And that was one of Commissioner Palmer mentioned earlier being able to do things simultaneously. There's a 90-day requirements and some of the public meetings and requirements can be woven into that process at certain times. But yes, there would be public comment and a hearing.

>> HOWARD KNAPP: And from the election administrator standpoint, South Carolina will follow the law, whatever the law ends up being, for the record. So make sure that's in the transcript.

But from an election administration standpoint, the only two things that matter the most to us, not the only two, but the two biggest things is of course money, which has been talked about a lot. And time. South Carolina has 300 elections a year every single year. We have three elections today. That's something basically this needs to be implemented now. Or you need to give us time to -- with whatever wiggle room you have, and I realize y'all have constraints, but time is a huge factor for us. And for our vendor that we use.

So just take that into consideration. But I'm not going to opine on the interpretation. That's way above my pay grade.

>> RICKY HATCH: Thank you. A visit to South Carolina, I heard the comment is today an election in South Carolina and the answer was is it Tuesday? Yeah.

Okay. We'll go to Mr. Moore.

>> Or sometimes Saturday.

>> RICKY HATCH: That's right.

Mr. Moore and Representative Proctor, okay. Mr. Moore. And then we'll end this section.

>> GREGORY MOORE: Greg Moore. I was going to mention this at the discussion board advisors priorities. Getting back to Camden's point. If it's okay, I would like to turn to Eric Fey. Last year, he was appointed the chair of the VVSG committee. There was a process we went through that was pain staking. And those of you on there, maybe for the people who don't know, that process does take a good chunk of time. And there is a possibility that if it's possible that this 90-day window does start and we don't meet again for another year, it's important for the VVSG committee to meet and convene and discuss this in the kind of detail I think is required by the statute.

And because I think we are here because of this conversation for the most part. If Eric wants to say anything about that. I think it's worth mentioning as part of the priorities and mission of board of advises.

>> ERIC FEY: Camden laid this out already in his brief explanation. Maybe a more lengthy explanation, Camden, if you

don't mind about the Board of Advisors subcommittee on VVSG. Maybe because you were in a lot of the meetings, the process we went through last year to provide comment on 2.0 and how that would work moving forward.

>> CAMDEN KELLIHER: Yeah. And so the main focus of the VVSG subcommittee then was forward looking with take the whole of VVSG 2.0 and think about it. So we have some of those things incorporated. The commission started to think about some of those things.

Actual defined we're looking for a change to the VVSG, that will be the entire Board of Advisors. So whether or not a meeting or a subcommittee, it's up to the Board of Advisors as to we have 90 days with this. We fully received it. Feel free to establish a VVSG subcommittee to target what that would be under that process as it looks that way.

The VVSG subcommittee could be a creation of the Board of Advisors if they deem it necessary in that review process as defined by the executive board.

So a little bit different in that it's a little -- that was kind of free flowing think about it. If we're looking at this process, it's a targeted review that we're trying to find advice and counsel to move forward with.

>> And let me add too, I know Brianna yesterday presented on the VVSG review process, the slides. The slides are in the members folders. If you want to look at that in writing and

review that, that might be helpful in engaging in that conversation.

>> RICKY HATCH: Thank you.

Excellent discussion. Very helpful.

We will now move to the section where we talk about the Board of Advisors priorities discussion. We're a little bit behind, a little bit late in time. So only one joke on you might be an election official if you get emotional over a perfectly signed affidavit.

Okay. Next, we will have discussion about priorities for the EAC. And we'll start out talking about the clearinghouse function. How can we best leverage the expertise of the Board of Advisors to enhance the clearinghouse function of sharing best practices and information among election officials? And this is one of the core missions.

Any suggestions on how the EAC can better get the word out and share best practices information through the clearinghouse function? Mr. Spakovsky, please.

>> HANS VON SPAKOVSKY: I'm sorry I keep talking. This is somewhat related to this, but not quite. One of this things we did not discuss, but I think this is important to our function in the EAC, is something we didn't discuss in the executive order is the order that the President has, this is in I think 2B, directing the Department of Homeland Security and the State Department to make their data bases available to election

officials.

Department of Homeland Security issued a press release I think about a month ago saying that they were going to revamp is SAVE system, which in the past was problematic for states. They said we can't search it without the alien number. If you have the alien number as the secretary of state, you know the person is not a U.S. citizen, which is just stupid. In fact, I'm sure most of you know, DHS put up such red tape trying to prevent election officials from using the SAVE system, that both Florida and I think Texas sued them prior to the election.

My point of bringing this up is right now, DHS is trying to revamp that data base to make it easier for state election officials to use. And in fact, one of the most important points of it is without the requirement of the payment of a fee, which is a very big deal. I think it's essential that the EAC be over talking to DHS with election officials, the folks in this room, who are the ones that have to figure out how to get that information and use it to make sure that -- we talked about interoperability yesterday. We don't want DHS trying to reshape this data base without the cooperation and input of state and local elected officials.

And my question is is the EAC involved in this right now? That's DHS. But for the first time ever, the President told the State Department to also provide access to its data base, which of course has information on individuals who have applied for

visas and therefore are not U.S. citizens, U.S. citizens who have received passports. State officials have never had access to State Department data bases. Who at the EAC is talking to the State Department about the ability of election officials to access those data bases in a way that they can easily do?

So my question is what's going on with this?

>> RICKY HATCH: Secretary Simon. And then Ms. Howard.

>> STEVE SIMON: Thank you. I will return the observation we're agreeing with each other a lot today.

I think --

>> HANS VON SPAKOVSKY: The world is coming to an end I think.

>> STEVE SIMON: It doesn't. I think Hans is right on at least two counts. One is that the data can be useful. Two is that it's dissemination or the structure it's made available to secretaries of state and other election administrators should involve those election administrators.

Leslie Reynolds whispered in my ear there are discussions and they are making that data available. And it's even available -- is it already available for -- okay. It's available free and it's available for bulk upload.

So we are, at least secretaries of state are, I can't speak for others, working with federal agencies on making that data more widely available.

>> RICKY HATCH: Thank you.

>> Liz Howard. You have referenced earlier today the paperwork reduction act. In thinking about your clearinghouse function, can you talk about how that absence of an exemption for this agency impacts your ability to serve that clearinghouse function? And can you talk about the history of the absence of the exemption?

>> CAMDEN KELLIHER: Yeah. This is something that the EAC discussed for a long time. We're a carve out from the FEC with particular functions and were granted an overall PRA exemption. The EAC does not have that PRA exemption. And for those not familiar with the paperwork reduction act, good for you. At the same time, just a brief explainer is that is the collection of data that reduces the burden on the collection of data from individuals. It makes a lot of sense for things like tax forms that everybody has to fill out. And it's on the uniform collection of information asking the questions from ten or more members of the public in a given year. If you ask us how much it cost the state election officials to do this, unless we do it through the board, we have to go through the state election officials as members of the public. Even to survey all 50 states elections officials and produce a report that's usable without a violation, it's 60 day notice and comment for approval for the form originally. And another 30 days. It's a 90-day process to get the general approval on the use of a survey that we would likely send out as voluntary anyway.

So that's the general overview of the PRA and how it makes things more difficult.

Like board members are not defined as members of the public. So when you ask you questions and follow-up questions, the standards board for instance, is not inclusive of the information that we would like to collect. So the PRA generally for the EAC is like a -- it slows it down, as best I can say. It's a speed bump along the way. Especially on information that we would otherwise like to collect fairly quickly.

>> And I would say that affects the Eve. So ill use an example. If we want to do find out how many jurisdictions are using drop boxes, we would have to go through the whole notice and comment period and take almost two years to get that on the Eves. So it's not like we can react quickly to changes in election policy and procedure.

>> And the FEC has an exemption, but the EAC does not?

>> Correct.

>> And I think that it comes into focus really when you're focused on an emergency like back during COVID or post-COVID when we had paper shortages and White House and other stakeholders wanted that information very quickly. We were really ham strung on how we were able to collect it. We had to be very innovative. So it does slow down the process, particularly when we need the information quickly for the benefit of the election officials. And policy makers. Yeah.

>> RICKY HATCH: Thank you. Ms. Gold, please.

>> ROSALIND GOLD: Rosalind Gold. Two comments. First of all, this has been a really interesting discussion about states and localities using data from USCIS or DHS. I would urge election officials when having discussions about data with the DHS, with the USCIS to ensure that there is up to date data about people who became naturalized citizens. Having an A number does not mean you are inherently not eligible if you naturalized and the saved data base did not reflect that or update that. I would say when you're talking to the agencies and using their data, ask questions about how they reflect naturalized citizens.

With respect to the clearinghouse, one of the questions I had is before we talk about how are we going to get more information about them, get people to use it more, what kind of evaluation and assessment has the EAC done on how materials are being used now? Has there been any tracking of metrics about downloads? Any kind of discussions with election officials? Any kind of choosing people who have gotten the data and asking them, hey, is this useful to you? How did you find out about it?

So I think I would be interested to learn about how much assessment has been done before designing an outreach and education about the materials program.

>> RICKY HATCH: Thank you, Ms. Gold.

Okay. We'll move on to another question. But next a ChatGPT, you might be an election official if you once corrected

a stranger's registration form in line at the grocery store.

Okay. Next question. What do you think -- this is kind of the big overarching question. What do you think should be the focused priorities for the Board of Advisors in the coming year? What should we focus on as a Board of Advisors over the coming year?

Mr. Adams, please.

>> J. CHRISTIAN ADAMS: Thank you. I was surprised to learn that nothing has been done since voters versus Newby was filed. That was about ten years ago when the executive director made a determination, I believe if I have the facts corrected, that something should be approved and I think the reason that the court of appeals decided that it should not have been approved was because of violations in the APA. And I think that has to be given some thought as to what the internal procedures are going to be at the EAC when you all face this inevitable flood of state applications that is right around the corner. Okay? There is going to be requests to modify the form as it relates to noncitizen issues and citizenship verification. And I'm a little surprised it hasn't been given -- I understand there's ongoing litigation. That doesn't mean you can't work toward a process being put in place that differs from the legal women voters versus Newby process. Because it's coming. I would suggest that people get cracking on figuring out what you're going to do with state applications to revise the federal form with state

specific instructions.

>> RICKY HATCH: Thank you Mr. Adams. Mr. Moore?

>> GREGORY MOORE: Greg Moore. I have to agree with Mr. Adams on this point. Because this is the point I was trying to make earlier. We have a subcommittee that was appointed last year that can start that process at least on the VVSG, interpretation of the executive order.

But the second part of it is if that's our responsibility, maybe we should put some extra time into the 90-day window to 180-day window to see if that makes sense for us to have advice going to the full board. I know we don't meet between years, but it seems like we're in a moment that the executive order could have a life of its own and we don't have the capacity to catch up with it. We're now in front of it. Make I'm misreading it. I don't want to oversimplify it. But it seems like the process would help us stay in front of the order and the interpretation of states. My certain is from what I understand, some states have statute that requires them to only certify machines and equipment that has federal certification and state. So if this is a two-step process, some states are going to be stuck and this flood of applications are going to come and we may be stuck in a place we don't want to be. Unless I'm reading it wrong, it seems like this is the inevitable result of the process.

>> So I do want to clarify. I think the VVSG process and NVRA process are two separate processes.

>> GREGORY MOORE: Speaking of the registrations.

>> The form which was subject to 2A currently enjoined --

>> GREGORY MOORE: I'm sorry.

>> I wanted to clarify that piece. So the consultation for the NVRA form, if we were to update that form, the contents of the form, change the regulations, or do something differently with the form is an initial consultation to state election officials, followed by notice and comment. That's for rule making, general rule making.

The one point that I did want to make to the original comment is we have at least at a minimum implemented the case law from the Newby decision into the EAC's general processes. The biggest take away from that is there wasn't a consideration on necessity prior to the issue of the decision, which even states specific instructions that come in from the states that just changed their address. Go through a close analysis with a determination on whether or not it is considered necessary and those nonsubstantive changes are pretty easy. But we have built that in at the forefront.

>> GREGORY MOORE: The flood of applications are from states trying to change the forms. The forms are voluntary. We use them, but states don't have to cod identify.

>> It's not voluntary. Yeah.

>> GREGORY MOORE: I saw your card come back.

>> That would seem to tee up the need to discuss what

necessary means. Let's suppose the state submits evidence that they registered without proof of citizenship 20 noncitizens. I can promise you every state represented in this room has done that. What if it's 100? 1,000? What does the EAC consider to be necessary before they will approve a change in federal form? You all have to think about this. You will start getting the applications and they will be accompanied by the evidence that I know some people think are like goblins and fairy, but the evidence that does exist on states registering noncitizens. So you have to take the Newby case law and ponder what will be a sufficient showing. And tell the states what you think. If you can show us the stack of noncitizens registered, and every state has it, what's the amount that you need to do it?

>> RICKY HATCH: Thank you.

Okay. Let's move on to another question looking at election administration in general. What are your top concerns for the field and are there any resources you think the EAC already has or could develop to help address those concerns? Mr. Fey?

>> ERIC FEY: I had a thought on the clearinghouse really quickly. To piggyback on the conversation about the federal registration form and so forth. A lot of local election officials I have talked to, when this comes up or this SAVE Act is concerned about people having to come and provide documentation in person at their offices and the administrative

burden that would come with that. To the extent that states are allowed to share information with their local election officials and do data base matching and not have to require people to come into the office, if that is the case, a clearinghouse function I think of the EAC would be to show best practices across the country that states that have been able to establish good data base sharing and information sharing amongst other state and federal agencies, so local election officials can match vital records and citizenship or whatever.

So if that's even possible under whatever laws or regulations may pass, if the EAC could provide information on some states that are doing it well, that would be very helpful.

>> RICKY HATCH: Thanks, Mr. Fey.

We will move to Representative Proctor and then we'll move forward with the association business.

>> PAT PROCTOR: So to that question that you just asked about helping election officers, the discussion that we had yesterday about auditing standards, best practices for audits could be hugely helpful. Because as the discussion revealed yesterday, audit means something different to almost everybody in this room. So I would just like to one more time say how critically valuable I think it would be for the EAC to publish best practices on audits and kind of standardize the definitions. Because I know as somebody who works in election law that we look to the EAC for the definition of what we're talking about

when we're writing the laws and if we don't have that kind of one standard that we're all looking at or we're all going to be talking about different things.

>> RICKY HATCH: Thank you, Representative.

Okay. We will move now to the continued business. First off, we have to have another you might be an election official if your idea of relaxation is color coded precinct batch control sheets.

Okay. Before we address the resolution that was submitted yesterday, we will update -- give you an update to the proxy situation. We have had a couple of members who have had to leave. So I will turn it over to Adam for that.

>> Sure. So just a reminder for everyone. Yesterday, we had five proxy designations. Jonathan Brater named Howard Knapp as proxy. Isaac Cramer named Ricky Hatch. Lauren named Barbara Simons. Lisa Morrow named Howard Knapp. Michael named Greg Moore. And Karen sellers stepped away and named DeAnna Brangers as her proxy. So we have six.

>> RICKY HATCH: Thank you, Mr. Thomas.

Okay. We're going to turn to a report from our resolutions committee to discuss their drafting and submission of the resolution proposed last evening.

The chair of the resolution committee is secretary Scott Schwab, the chair elect. He is not present. Based off of feedback from the legal counsel, that falls on our new chair

elect, which is Ms. Chris Walker. So I'm going to turn it over to Chris who will discuss the resolution that was presented.

>> CHRIS WALKER: All right. Chris Walker, Jackson County clerk, Oregon.

We did receive a resolution from Mr. Von Spakovsky. At that point, it looks that we were going to reject to form the resolutions committee is submitting an alternate. And were we able to get that up on the screen? They're doing that right now.

We asked for a legal counsel review by Camden. And I'm going to ask now for Camden to go ahead and address the legal concerns based on looks like federal code and the by laws.

>> CAMDEN KELLIHER: Yeah. Pretty straight forward that the recommendation and resolutions must be to the EAC. So the FACA boards are governed by the charter. The charter says resolutions and recommendations be made to the EAC. The recommendation as drafted was recommended to the Congress. And we can circulate this recommendation to the Congress, but the recommendation resolution should be to the EAC to be in accordance with the FACA and the charter. So that was my comment on this. And I think it's been redrafted to meet that advice.

>> CHRIS WALKER: Okay.

>> Madame chairman, can I address that?

>> CHRIS WALKER: Yes.

>> HANS VON SPAKOVSKY: Look, the resolution that the committee put forward is pretty much the same as mine. Except

that you changed the ending so it now says it's therefore resolved by the Board of Advisors that the Board recommends that the EAC explore all avenues to ensure the commissioner compensation is fair and competitive. Well, they have already done that. Okay? And you're putting them in the position of going and begging Congress to finally lift that freeze.

What I had in my final paragraph, ladies and gentlemen, was it is therefore resolved by the Board of Advisors that the Board recommends that Congress remove this exception and ensure at that the commissioners of the Election Assistance Commission receive all the same salary increases and cost of living adjustments applied to other senior officials throughout the executive branch. Such removal of the exception should be retroactive. The Board requests that a copy of the resolution be sent to the leadership of both houses of Congress, the relevant committees with jurisdiction over the commission, and the White House.

That does not violate the charter provision that you are talking about. We're simply requesting that the EAC, which could be your general counsel, send a copy of this to those different parties. That doesn't -- how does that violate the charter? We're not doing it by ourselves. The board is not doing it. We're simply asking, requesting that the EAC and the most appropriate would be the general counsel, send a copy of this resolution to all of these parties so that Congress, the

bipartisan leadership of all the committees gets notice from this Board that we believe this should be lifted.

As I said, that doesn't violate the charter as I read it because we're not ordering the EAC to do it. We're not going to Congress ourselves. We're simply requesting that the EAC send this. You guys get the request. You can always say no. But if the general counsel could explain to me how that violates the charter. Because frankly, I don't understand how it violates the charter.

>> CAMDEN KELLIHER: So it's the first sentence that recommends that Congress take action that I took issue with. We would send the resolution and make the resolution public and available. The charter dictates that resolutions and recommendations be made to the EAC. The adoption of resolution that begins whereas the board recommend that Congress take an action --

>> HANS VON SPAKOVSKY: But that's easily fixed. All you do is change the language to say that the Board recommends that the EAC requests that Congress does all the things I have said. And the Board requests that the EAC send a copy of its resolution. That fixes the problem.

>> CAMDEN KELLIHER: Yeah. I don't disagree that would be proper.

>> HANS VON SPAKOVSKY: Okay. Then I would like to ask the resolutions committee to restore my last two original paragraphs

with that change. If it's acceptable to the general counsel.

>> CHRIS WALKER: So do we go to a motion? Is that your motion? Okay. That's his motion.

>> I will second that, Tina Barton.

>> CHRIS WALKER: Okay. Any conversation? Other conversation?

>> Just for clarification, I think you said this. You're accepting the other modifications from the committee? It's just that last part?

>> CHRIS WALKER: Any concerns? Other conversation?

>> RICKY HATCH: Could we -- I'm guessing, Adam, you're working on this. We should probably have a text available so we can all read it in its full form.

>> CHRIS WALKER: Will that be on the screen as soon as they can get there? Okay.

>> While we're waiting, in this very awkward position of the four of us sitting here while you're talking about our pay, I do want to be serious and say thank you for the consideration of the hard work that the four of us do each and every day. Christy and I have been here ten years. Ben and Don for over six. And I think that it's a testament to where we have changed in terms of the folks talking about our elimination through various sources to folks here in this room asking us for more information and saying how much you use our resources. And I think that's a testament to the four of us directing our staff. But I think

that the staff does an excellent job of getting this information out to you and providing that information to you.

The subject matter experts have done fantastic job of producing products. Clearinghouse team. And I think that we have grown in a very meticulous way that shows our value.

So and I want to thank everyone who has been in here over the last two days because the -- Hans said this earlier of he wants everyone to participate. And I believe that everyone in this room has participated in this meeting this week. And I think that giving that advice to us and letting us know how you feel on various subjects is very valuable. I will take most of us to heart.

And then to see how there is consensus on a lot of issues here when there has been a lot of contention across the country over the last few years I think is very good in terms of what Mr. Adams said earlier about having all voices in the room. I think that all voices are in this room to say where we stand either on the left or the right or down the middle.

So I want to thank you all for participating. I want to thank you all for showing up. This is the most I believe that we have ever had attendance wise for the Board of Advisors. And I do want to thank you for taking it seriously as opposed to just showing up and being here. And hopefully, that gave Adam enough time.

>> CHRIS WALKER: Thank you, Commissioner Hicks.

Looks like we have the language back up on the screen. If everybody would like to review, we have a motion on the floor. We have had a second. And now we're still in conversation.

I do see in the very last paragraph looks like the second line under read, there might be verbiage that doesn't exactly fit.

Do we want to read aloud? Or is everybody good reviewing on their own? And if you do have concerns, please don't hesitate.

Okay. We will start from the top.

In 2012, the pay of the Presidential nominated Senate confirmed commissioners of the Election Assistance Commission was frozen through a presidential directive. Congress has maintained that freeze continuously since then, including in the latest appropriations bill. Section 164 -- or 154? 164 of division A of the continuing appropriations and extensions act of 2025. As a result, the commissioners who under the Help America vote act are statutory officers with the legal authority to govern the Election Assistance Commission have received none of the salary increases and cost of living adjustments provided to other senior officials throughout the Federal Government. Including senior members of the career civil service. It is therefore resolved by the Board of Advisors that the Board recommends that the EAC request that Congress remove this exception and ensure that the commissioners of the Election

Assistance Commission receive all of the same salary increases and cost of living adjustments applied to other senior officials throughout the executive branch.

Such removal of the exception should be retroactive. The Board requests that the EAC general counsel send a copy of this resolution to the leadership of both houses of Congress, the relevant committees with jurisdiction over the commission, and to the White House.

Adopted May 6, 2025, if it is.

Well, except for the six and the five gets to me. Even on ballots.

Any other comments?

Should we go for a vote? A full vote? Let's go for a full vote.

Those say aye?

Do we need to do a hand count?

Nay?

Looks like the motion passes. Thank you. And I will send it back to Chair Hatch.

>> Madame chairman, can I suggest to the general counsel when you send the letter, you say it was unanimously adopted by the Board?

>> RICKY HATCH: Thank you, Ms. Walker.

Now we are getting close to the end of the meeting. I know everyone is excited to hear the next you might be an election

official if. You might be an election official if you can't hear the word chain without immediately thinking of custody. And then you might be an EAC Board of Advisors or commissioner if you have a favorite section of the Help America Vote Act.

Okay. Now I would like to turn the time over to Commissioner McCormick to provide brief closing remarks.

>> CHRISTY McCORMICK: Thank you, Chairman Hatch. Tom kind of already spoke on behalf of the commissioners. I want to thank you all for sharing your time with us over the past two days. We realize that you're very, very busy. And you made it a priority to be here. And the EAC is stronger because of your participation.

I also want to thank those of us panelists and speakers who imparted their knowledge to us. Having spoken at events across the country, I appreciate the prep work that you did to help make our sessions more fruitful.

And I want to thank the fellow commissioners and EAC staff who work tirelessly each day to improve the agency by increasing the level of assistance to stakeholders. Thank you to the board opening statement ADFO, Adam Podowitz-Thomas, who helped ensure the members were taken care of. And thank you for all that you have done to facilitate this meeting.

And we were able to have some very productive conversations and I really appreciate that. And we will take all of your comments and advice to heart.

Safe travels to return to your homes across the District or across the country. And I will now turn it over to Ricky to close out this meeting. Thank you so much for being here.

>> RICKY HATCH: Thank you, Commissioner McCormick.

Thank you also I want to echo her thanks to all the board members for the robust discussion that we have had over the past two days. We really appreciate it. Hopefully, it has been obvious in this meeting and as proven over the years that the commissioners do listen to what we have to say. We really are advisors. And I appreciate the board members' willingness to make your comments heard and to provide counsel and advice to the commissioners. And I do believe that we have a listening ear and that they do take these into considerations.

The Board of Advisors is the unique FACA of the boards for the EAC in that we have diverse voices. The others are comprised of election officials. And election officials know that we are a special breed. And it is refreshing and helpful to have a Board of Advisors comprised of multiple voices representing multiple different philosophies and policy positions in relation to elections. It's helpful to have that as part of an advisory board to the commission.

And we really appreciate it. And like an earlier election official, we can have passionate discussions about policy issues, about elections. And we have the fundamental understanding -- sorry, we have the shared understanding that we

all share a fundamental goal, which is free, fair, secure, accessible, accurate elections. And I don't think there's a single person in this room that would disagree with any aspect of our desire there.

So thank you again for everything that you have shared and done over the past couple of days, as well as in the interim sessions.

And we would like to open the floor for any member who would like to give additional comments. Mr. Moore?

>> GREGORY MOORE: Greg Moore. Thank you for your year as chair. I have been in that chair, it's a difficult job. It looks easy, but it's not. So thank you to the DFO. And also welcome our new chair -- I'm sorry, vice chair elect and wish Scott good luck in his upcoming chairmanship. Thank you for your service, Mr. Chair.

>> RICKY HATCH: Thank you, Mr. Moore.

Other comments?

Fantastic. Given that silence, I will now entertain a motion to adjourn the meeting. Moved by Mr. Reimer. Fantastic. Second by Ms. Walker. All in favor, please say aye. Any opposed may stay here forever. Thank you. I rule this meeting is adjourned.