

**Minutes of the Meeting
of the Board of Advisors to the
United States Election Assistance Commission**

Held at
Hyatt-Regency on Capitol Hill
400 New Jersey Avenue, N.W.
Washington, DC 20001

The following are the minutes of the meeting of the Board of Advisors (Board) to the United States Election Assistance Commission (EAC) held on June 17-18, 2008. The meeting convened on Tuesday, June 17, 2008, at 10:18 a.m., EDT. The meeting was adjourned at 4:05 p.m., EDT, on June 18, 2008.

PUBLIC MEETING

Call to Order:

Chair Chris Thomas called the meeting to order at 10:18 a.m.

Pledge of Allegiance:

Chair Thomas led all present in the recitation of the Pledge of Allegiance.

Roll Call:

Secretary Sue Sautermeister called roll of the members of the Board of Advisors and found present: Mary Herrera, Chris Nelson, Michael Buckingham, Deb Markowitz, Todd Rokita, Chris Thomas, Linda Lamone, Wendy Noren, Helen Purcell, Beverly Kaufman (by proxy), David Orr, Doug Lewis, Ernie Hawkins (by proxy), Tony J. Sirvello, III, Bill Cowles, Abigail Thernstrom, Arlan D. Melendez (by proxy), Neil K. Melick, Ron Gardner, Craig Donsanto, Barbara Arnwine, Wesley R. Kliner, Jr., Joseph F. Crangle, Donald A. Jones, Terri Hegarty, Keith Cunningham, James C. Dickson, Robin Carnahan (by proxy), and Sue Sautermeister. Secretary Sautermeister noted there was a quorum present. Polli Brunelli entered the meeting after Roll Call.

Members Absent: Edward Sandoval, Frank Ortis, Rhine McLin, Butch Bowers, Tom Fuentes, Ann Watts.

Represented via proxy:

Bev Kauffman, Ernie Hawkins, Arlan Melendez, Robin Carnahan.

Adoption of Agenda:

Chair Thomas asked for a motion to adopt the agenda. Mr. Buckingham moved to adopt the agenda. Ms. Arnwine seconded the motion. The motion carried unanimously.

Welcoming remarks:

Chair Thomas welcomed the Board and thanked the Committees that have been working since the Board's last meeting in December 2007. Chair Thomas recognized Commissioner Gracia Hillman, Designated Federal Officer to the Board, and thanked her for her work with the Board of Advisors. Chair Thomas then recognized Commissioner Donetta Davidson and Juliette Hodgkins, General Counsel, and said EAC Chair Rosemary Rodriguez and Commissioner Caroline Hunter, and EAC Executive Director Tom Wilkey should be joining the meeting later.

Commissioner Hillman welcomed the Board of Advisors, offered assistance if needed, and addressed logistics for the meeting.

Appointment of Parliamentarian:

Chair Thomas appointed Mr. Donsanto as Parliamentarian.

Appointment of Proxy Committee:

Chair Thomas appointed Mr. Lewis as Chair of the Proxy Committee. Mr. Jones and Ms. Purcell volunteered to serve on the committee.

Appointment of Resolutions Committee:

Chair Thomas appointed Mr. Kliner as Chair of the Resolutions Committee. Mr. Sirvello and Mr. Dickson volunteered to serve on the committee.

Review of Meeting Materials:

Commissioner Hillman went over all the materials for the meeting and provided a detailed explanation of how the materials will be used during the meeting.

Approval of Minutes:

Ms. Sautermeister moved to accept the minutes from the December 12, 13 and 14, 2007, Board meeting. Mr. Donsanto seconded the motion. An amendment was made to the minutes. The Board approved the amended minutes.

Chair's Report - Appointment of Voting System Certification Committee:

Chair Thomas appointed Mr. Dickson, Mr. Rokita, Mr. Orr, Ms. Purcell, Ms. Lamone, Mr. Lewis, Mr. Cowles, Ms. Noren and Mr. Kliner to the Voting System Certification Committee. Chair Thomas noted that certain organizations have membership to the Voting System Certification Committee via the Bylaws. Chair Thomas reported that the Board may consider adding two members to the Committee when the Bylaws Committee reports.

Old Business - Resolutions 2007 D1-D20: EAC and NIST Responses:

Chair Thomas introduced Mark Skall and John Wack from NIST. Commissioner Hillman listed the resolutions Mr. Skall and Mr. Wack will be addressing. They are Resolutions 2007 D1, D2, D3, D4, D5, D6, D7, D8, D9, D10, D11, D12, D13, D16 and D19. Chair Thomas said that the Board adopted the Resolutions dealing with the Voluntary Voting Systems Guidelines (VVSG) at its meeting in December 2007 and they were transmitted to NIST by the EAC.

Mr. Skall reported that the EAC asked NIST to conduct VVSG related research, specifically looking at the following six tasks, with final results delivered in September: Alternatives to Software Independence, developing standards for Ballot on Demand Systems, the impact of the VVSG on Vote-By-Phone Systems, the ramifications of separately testing and certifying components plus requirements for interoperability, the impact of the VVSG on early voting or vote centers, and developing alternatives to goal level requirements in the VVSG. Mr. Skall emphasized that the EAC will make all decisions with respect to changing the VVSG. He said that NIST explored the options, listing both pros and cons of each option.

Mr. Skall started with the first task, Alternatives to Software Independence. The EAC asked NIST to retain the focus in the VVSG on security, verifiability and auditability. He said that to retain a focus on security, the alternatives will all have significant ramifications and he listed those ramifications. Mr. Skall answered questions from Board members. Mr. Skall and Mr. Wack emphasized that NIST is not making any recommendation at this time on any of the alternatives.

Next, Mr. Skall described Ballot on Demand Systems. The EAC asked NIST to research the feasibility of including Ballot on Demand requirements in the VVSG and whether the needs of election officials in this context needs further clarification. The preliminary conclusion is that Ballot on Demand Systems are not a mature product yet. However, NIST does feel that it is feasible to include requirements for Ballot on Demand in the next VVSG, focusing on more specifics.

Mr. Skall next addressed the third task, Vote-By-Phone Systems. Mr. Skall described such systems. He said that any Vote-By-Phone System NIST could envision would probably fail VVSG security requirements as written. He added that the VVSG could probably be rewritten to permit Vote-By-Phone concerning security. Mr. Skall added that there might be problems meeting the interpretation of HAVA regarding accessibility.

Mr. Skall addressed the fourth task, separately certifying components and interoperability. He said that this task was a fairly complex question. The EAC asked NIST to look at three specific areas, to develop a feasibility study of the ramifications of the EAC separately testing and certifying components, to research requirements for interoperability between systems and system components, and to research whether a specific standard for format of electronic election data can be required.

Mr. Skall addressed the fifth task, early voting and vote centers. The EAC asked NIST whether the VVSG prohibits or impacts the use of voting equipment in the early vote centers, with a special concern with regard to the use of e-poll books. In short, NIST sees no impacts – the VVSG would allow early voting, it allows electronic poll book requirements and they are allowed to attach to network connections to central voter registration databases, which would, in fact, enable e-voting centers.

Mr. Skall addressed the last task, goal requirements. The EAC asked NIST to identify goal level requirements. Mr. Skall said these can be thought of many different ways such as high level, vague requirements that can identify goals but are untestable or as requirements that could be tested, but the testing would be subjective and non-repeatable. Mr. Skall added that this is a complicated issue with no easy answer.

Chair Thomas said that Mr. Wilkey will address Resolutions 2007 D14 and D15 when he talks to the Board later. Chair Thomas said that Resolution 2008 D18 is in the research report and will be addressed later also.

Chair Thomas said that Commissioner Davidson will address Resolution 2007 D17 and explained that it was a request by the Board that the EAC consider appointing a member of the Election Technology Council, or somebody from the manufacturers, to the Technical Guidelines Development Committee (TGDC) in an effort to make sure that voice was considered and heard during the consideration of the VVSG.

Commissioner Davidson described how the TGDC was established by HAVA, the current makeup, and how the makeup could vary under the Law. She noted that EAC is carefully reviewing options that could address the board's resolution. Commissioner Davidson added that EAC is also looking at instituting two-year terms for all TGDC members, except that the chair is designated in HAVA to be the Director of NIST.

Chair Thomas recognized Rosemary Rodriguez, Chair of the EAC, as joining the meeting. Chair Thomas recognized Commissioner Caroline Hunter as joining the meeting.

Chair Thomas said that Resolutions 2007 D14 and D15 address the use of websites – D14 deals with compilation of voting system incident reports during and after an election and D15 deals with compilation of post-election audit reports, local and State standards, ordinances and legislation, and pilot projects relating to election auditing. Mr. Wilkey provided updates on the two Resolutions. Concerning D14, the EAC has adopted a policy whereby it will post on its websites incident reports, reports of a general nature of voting systems, including both successes and problems that have been authorized, paid for, or approved by a government jurisdiction. This policy is on the EAC website. Mr. Wilkey said that the EAC, as a Federal Government agency, wants to be careful that anything put on the website has at least some acknowledgment by State or local election officials. Concerning post-election audits, Mr. Wilkey said the EAC expects one of the next in the series of quick-start guides will be on auditing. He also said that the house Appropriations Sub-Committee may consider an

appropriation for grant money in the area of logic and accuracy testing and the area of auditing. Mr. Wilkey said they should know within the next couple of days whether any grant money for those purposes is part of the Appropriations Bill.

Working Lunch:

Prior to breaking for lunch, at 12:20 p.m., Chair Thomas asked those present to introduce themselves, including what they do "in the real world" and who their appointing authority is. Chair Thomas noted that there are Committee meetings after members have eaten. The luncheon break ended at 1:40 p.m.

Proxy Committee Report:

Chair Lewis reported there were four proxies submitted and duly executed as follows: Robin Carnahan assigned her vote to Wendy Noren; Ernie Hawkins assigned his vote to Doug Lewis; Arlan D. Melendez assigned his vote to Barbara Arnwine; and, Beverly Kaufman assigned her vote to Sue Sautermeister. Mr. Frank Ortis submitted a proxy form and assigned it to a Board member who is not attending so it cannot be effected. Polli Brunelli submitted a proxy form, effective when she is absent, assigning her vote to Wesley R. Kliner, Jr.

Resolutions Committee Report:

Chair Kliner reported the Committee received four proposed amendments. Two were submitted originally with documentation from the Special Committee on EAC Research and Studies. Those two are satisfactory as to form and will be submitted at the appropriate time for discussion and adoption consideration. The two additional proposed amendments, one submitted by Mr. Nelson and one submitted by Ms. Arnwine, are being typed up by EAC staff. They were in conformance with form and will be considered at the appropriate time.

In addition, Mr. Kliner reported that a resolution that had been properly adopted at the board's December 2007 meeting was inadvertently omitted from the materials of that meeting. The language for that resolution has been found in the December 2007 transcript. The resolution will be submitted for the record after it has been rewritten.

Mr. Kliner directed the Board's attention to a sample resolutions Form in the meeting binder. He set a deadline of 11:00 a.m. on tomorrow (June 18) for submission of any additional proposed resolutions.

Mr. Crangle brought up Resolution 2007-02, which had been passed by the board at its January 2007 meeting. The resolution addressed the issue of EAC researching Election Day as being designated a holiday or to be held on a Saturday. Chairman Thomas indicated this topic would be discussed later by Mr. Wilkey later in the meeting. Doug Lewis briefly discussed the results of the Election Center's recent study of this matter for EAC.

Bylaws Committee Report:

Chair Sautermeister first thanked the Committee members. She then reported that the Committee tried to ensure that the Bylaws fit with the HAVA requirements on meeting notice, recordkeeping, and storage of records. Ms. Sautermeister said the Committee has some recommended Bylaws changes and a motion will be introduced tomorrow to accept a replacement of the current Bylaws from 2005. Ms. Sautermeister then went through the current Bylaws describing the proposed changes that will be introduced tomorrow.

EAC Research and Studies Special Committee Report:

Chair Markowitz thanked the Committee members. She then reported that the Committee went through all studies mandated in HAVA, additional studies undertaken by EAC, and a Board of Advisors resolution asking EAC to consider studying the cost of running elections. Ms. Markowitz provided a couple of general points the Committee wanted the Board to keep in mind as it considers the Committee's Proposed Resolutions. She said there is a general feeling that States and the Board of Advisors need to have input on a number of levels and should be involved in studies from conception to looking at the final product. She said there was also some concern that there is a lot of information coming out of the EAC, but there has not been a very good way of getting it out into the States, and that some studies involve surveys that are not consistently getting to the States and that affects the validity of the studies. She then reviewed the Committee's Proposed Resolutions and recommendations. Board members asked questions, offered opinions, and there was extended discussion on the recommendations and on issues raised by the recommendations.

Recess:

The Board recessed from 3:11 p.m. until 3:32 p.m.

EAC Study: Voter Information Websites Design and Best Practices:

Edgardo Cortés, Acting Division Director, HAVA Payments and Grants and Election Administration Improvement Program described an EAC study on voter information websites and described how the study was conducted. Only websites having the capacity to allow an individual to look up their registration status were included in the study. Mr. Cortés said that along with the research, there was a working group consisting of State and local election officials from jurisdictions that have such websites, advocacy organizations, and IT professionals. Detailed information on the study was included in the meeting materials. Mr. Cortés said that the recommendations resulting from the study are EAC's attempt to give election officials some guidance for setting up websites in a way that provides the maximum information and usability to voters while protecting their personal information. Board members offered many comments and opinions about the study. Extended discussion took place concerning the study.

Recess:

Chair Thomas reminded the Voting Systems Standards Committee that it would meet for a couple of minutes after the meeting recessed. The meeting recessed at 3:57 p.m. until the following morning.

Reconvening:

Chair Thomas reconvened the meeting at 9:15 a.m. on Wednesday, June 18, 2008. He noted that the December 2007 minutes should reflect that Mary Herrera, Todd Rokita, and Deb Markowitz were present at the Board meeting in Austin, Texas.

Proxy Committee Update Report:

Mr. Lewis reported that the proxies have not changed from yesterday. He reminded the Board that Ms. Noren, Mr. Lewis, Ms. Arnwine, and Ms. Sautermeister have two votes each. He added that since Ms. Brunelli is not present, Mr. Kliner has two votes. There are no additional changes at this time, although the Committee has been informed there will be additional changes throughout the day.

Recognition:

Chair Thomas recognized Alice Miller, the new COO of the Election Assistance Commission.

Resolutions Committee Update Report:

Mr. Kliner reported that two Resolutions have been submitted by Barbara Arnwine. The Committee will need to meet to consider the second Resolution. The first has already been approved. There is an additional Resolution to be submitted by Mr. Gardner and Mr. Melick, and Mr. Kliner requested that it be submitted by 11:00 a.m. Mr. Dickson said he has another Resolution he would like to submit.

EAC Presentations:**Report from Executive Director Thomas Wilkey:**

Mr. Wilkey recognized the Honorable Joe Crangle from Buffalo, New York, and provided accolades to him. Mr. Wilkey then recognized Alice Miller and thanked her for joining the EAC staff.

Mr. Wilkey encouraged Board members to use the EAC website to keep themselves informed about the commission's activities.

He reported that the EAC is moving forward and resolving issues cited in the EAC Office of Inspector General (OIG) report from several months ago regarding written policies and procedures.

Mr. Wilkey addressed the EAC's research and studies to say that some have been acceptable and some have been outstanding. He said that they are offered for use, but they are not mandated for use. The EAC tries to research and study subjects that will produce information that can be used by election but recognizes that not every study will be suited to everyone. When looking at the election system as a whole, the EAC cannot come up with a document that meets the needs of both the smallest jurisdictions and the largest jurisdictions. He hopes that the Board will keep this in mind and he stressed that the EAC needs the Board's assistance in reviewing documents. He said the EAC takes the Board's comments seriously.

Report on Program and Services from Edgardo Cortés, Director of Program and Services Division:

Mr. Cortés reported on the following items:

EAC adopted a policy in April 2008 to issue advisory opinions regarding the use of HAVA funds. A section of EAC's website has been dedicated to Advisory Opinion requests.

A report to Congress on HAVA spending by the States through December 2007, will be released in July.

EAC's website now has a section on EAC grants programs. Cortes reported on the Help America Vote College Pollworker and the Help America Vote Mock Election programs.

Report on Election Management Guidelines and Testing and Certification from Brian Hancock, Director of Certification:

Mr. Hancock said his Division is responsible for four major areas – the Elections Management Guidelines program, the Voluntary Voting System Guidelines program, the EAC's Laboratory Accreditation program, and the Testing and Certification program.

Mr. Hancock reported that the Elections Management Guidelines are a collaborative effort between the EAC and State and local election officials to provide best practices in important areas of election administration.

Mr. Hancock next addressed the Voluntary Voting System Guidelines program. He described the process used in developing the next iteration including publication in the *Federal Register* with public comment and the use of roundtables. Approximately 2,600 public comments have been received in addition to feedback from the roundtables. He said there are several options available that the Commission will consider for moving forward with the draft VVSG. One option would be to review the public comments, produce the EAC's version and send it out for a second public comment period without too much additional research. Another option would be to wait until after the EAC receives the NIST work product that is a result of the resolutions passed by the Standards Board and the

Board of Advisors in December 2007. Mr. Hancock said they are initiating a risk assessment study; almost everyone at the roundtables agreed it was a crucial element of developing standards in any area. Another option the Commission will consider is to move forward with the next iteration document through the public comment period, addressing some of the major issues, including risk assessment. A final option would be to revise the 2005 VVSG.

Mr. Hancock next addressed the EAC's Laboratory Accreditation program. Under the Help America Vote Act, the National Institute of Standards and Technology (NIST) is required to assist the EAC in accrediting voting system test laboratories. Mr. Hancock described how NIST assists the EAC in that function. He said they are further developing their accreditation program by working on the Voting System Test Laboratory Accreditation Program Manual, a companion to the Certification Program Manual. It was published in the *Federal Register* last February with a 60-day public comment period. Comments were taken under consideration and final changes to the document are being made. It will be presented to the Commissioners shortly at one of the EAC Public Meetings.

Lastly, Mr. Hancock addressed the Testing and Certification program. HAVA requires that the EAC provide for the testing, certification, de-certification, and re-certification of voting systems. Basically, the purpose of the program is to independently verify that voting systems comply with the capabilities, accessibility and security requirements necessary to ensure the systems used have integrity and reliability. He said that in December of 2006 the EAC Commissioners approved the Certification Program Manual.

Report from Karen Lynn-Dyson, Director of Research:

Ms. Lynn-Dyson introduced Shelley Anderson, Deputy Research Director and Matt Weil, Election Research Specialist. She described the research work plan for the next 10 months and explained the processes that EAC must follow to prepare for a research study and project. Ms Lynn-Dyson noted the work that the research staff had done with the board's Special Committee on EAC Research.

Vote Count and Recount Study, Thad Hall:

Chair Thomas introduced Thad Hall from the University of Utah. Dr. Hall said he began working on the project in late 2005 and the project comes from Section 241 of HAVA requiring the EAC to conduct a study examining vote counts and recounts and requiring identification of the methodology for studying best practices and examining State election laws and regulations in all 50 States and the District of Columbia. Dr. Hall said that study has already been done and is currently being updated because some States have changed their Election Code. Dr. Hall said the key things done in the study are to identify best practice methodologies, to present criteria for evaluating best practices, examining what are the most common practices that exist for vote counting and recounting, to

identify a benchmark practice to try and exceed that most common practice, and identifying effective practices for vote counts and recounts that have actually been implemented.

In summary, Dr. Hall said they are examining best practices in a couple of key areas including what constitutes a vote, ballot accounting, election auditing, security, and transparency. He then made two pleas to the Board. He asked if it could come up with a standard set of terms for "election things" and if there could be a standard index for election codes.

Recess:

The Board recessed from 10:52 a.m. until 11:24 a.m.

New Business:

Proposed Resolutions from the EAC Research and Studies Committee Report:

Ms. Markowitz directed the Board's attention to Attachment A.

Ms. Markowitz read the following recommendation into the record: "That the Board of Advisors recommends to the U.S. Election Assistance Commission (EAC) that a working group consisting of relevant stakeholders be appointed to jointly work with the State Election Directors in the development of a State Distribution Plan for materials produced by the EAC." Ms. Noren moved that the recommendation be adopted. Mr. Cunningham seconded the motion. The motion carried unanimously.

Ms. Markowitz read the following recommendation into the record: "That the Board of Advisors recommends to the U.S. Election Assistance Commission (EAC) that all research and study projects include a working group of relevant stakeholders. It also recommends that for each study, EAC should determine at the outset whether or not it will conduct peer review of the study report and accompanying data sets. It is further recommended that EAC consider election cycles when it develops its timeline for data collection from election officials and releases its various research and study reports." Mr. Lewis moved that the recommendation be adopted. Ms. Herrera seconded the motion. The motion carried unanimously.

There was some discussion on procedural matters.

Ms. Markowitz made a motion on the Proposed Resolution that the Board of Advisors makes the recommendations presented in Attachment A regarding EAC's research and study practices. Mr. Donsanto seconded the motion. The motion carried unanimously.

Chair Thomas explained that as the Board moves to the next Resolution, they will go through each recommendation individually, as they did with

the previous one, and those that receive an affirmative vote will then be included into the final Resolution after each is completed separately.

Ms. Markowitz directed the Board's attention to Attachment B.

Ms. Markowitz read the following recommendation into the record: "That the Board of Advisors recommends to the U.S. Election Assistance Commission (EAC) that a working group be formed and priority be given to the completion of the study that is to be conducted in consultation with the Social Security Administration on the advisability and feasibility of using Social Security identification numbers...to establish...eligibility or identification requirements,..." Mr. Donsanto moved that the recommendation be adopted. Ms. Arnwine seconded the motion. Some discussion took place on the motion. The motion carried unanimously.

Ms. Markowitz read the following recommendation into the record: "That the Board of Advisors recommends to the U.S. Election Assistance Commission (EAC) that it produce, soon, an interim status report on its collective efforts and a plan to complete its study of the issues and challenges presented by incorporating communications and Internet technologies in the electoral process." Ms. Hegarty moved that the recommendation be adopted. Ms. Brunelli seconded the motion. The Board discussed the motion. The motion carried unanimously.

Ms. Markowitz read the following recommendation into the record: "That the Board of Advisors recommends to the U.S. Election Assistance Commission (EAC) that it provide guidelines to the States by defining the following terms: Early Voting, Absentee Voting, No Excuse, Excused, Early Absentee." Mr. Donsanto moved that the recommendation be adopted. Mr. Dickson seconded the motion. Some discussion took place on the motion. Mr. Dickson requested that the terms Disabled Absentee and Hospital Voting be added to the list of terms to be defined. There were no objections and Ms. Markowitz accepted the change as a friendly amendment. Mr. Kliner pointed out that the topic sentence just prior to the recommendation needs to be changed to show that the recommendation refers to HAVA Sec. 241(b)(1) and 301. Mr. Nelson moved to amend the motion by striking "guidelines to the States" and replacing it with "a glossary of election terms." Mr. Buckingham seconded the motion. The amendment to the motion was discussed. The Board voted on the amended recommendation. The motion carried. The Board voted on the motion that now reads: "That the Board of Advisors recommends to the U.S. Election Assistance Commission (EAC) that it provide a glossary of election terms by defining the following: Early Voting, Absentee Voting, No Excuse, Excused, Early Absentee, Disabled Absentee, Hospital Voting." The motion carried unanimously.

Ms. Markowitz read the following recommendation into the record: "That the Board of Advisors recommends to the U.S. Election Assistance Commission (EAC) that it review the Provisional Ballot Study to determine the facts that contributed to the need for the use of provisional ballots (such as how and when voter registration applications were received).

The Board further recommends that the EAC study data be accompanied by descriptions of HAVA's goal for provisional voting and how each state meets that goal." Mr. Donsanto moved that the recommendation be adopted. Ms. Noren seconded the motion. Ms. Noren proposed the following change to the second sentence of the recommendation: ...The Board further recommends that the EAC collect information about how states use provisional balloting and that study data be accompanied by descriptions of HAVA's goal for provisional voting and how each state meets that goal. There were no objections and Ms. Markowitz accepted the change as a friendly amendment. The motion carried unanimously.

Ms. Markowitz read the following recommendation into the record: "That the Board of Advisors recommends to the U.S. Election Assistance Commission (EAC) that it examine what research has been done, if any, on all elements of Election Day as they relate to accessibility, including official government information websites and telephone hotlines. Further, consideration should be given to the formation of a working group to advise the EAC on this effort and on the development of standards and guidelines for accessible voting equipment. Included in the guidelines should be a definition of Disabled Voter." Mr. Dickson moved that the recommendation be adopted. Mr. Gardner seconded the motion. The Board discussed the motion. The motion carried unanimously.

Other:

Mr. Wilkey reported that yesterday EAC's Appropriations Sub-Committee in the House of Representatives recommended EAC's budget for next year. He was told it includes \$5 million for research related to accessible voting systems.

New Business (Cont'd):

Proposed Resolutions from the EAC Research and Studies Committee Report (Cont'd):

Ms. Markowitz read the following recommendation into the record: "That the Board of Advisors recommends to the U.S. Election Assistance Commission (EAC) that it conduct follow up study to help determine trending and that such study include information from at least one local election jurisdiction in each State." Ms. Purcell moved that the recommendation be adopted. Ms. Arnwine seconded the motion. The Board discussed the motion at length. Changes were suggested to the recommendation so that it read: "That the Board of Advisors recommends to the U.S. Election Assistance Commission (EAC) that it conduct follow up study to help determine trends and that in designing such study it consult with State and local election officials to ensure that it takes into account State Laws and that such study includes information from the State and at least one local jurisdiction in each State." Further discussion took place.

Ms. Thernstrom moved that the motion be amended to read: "That the Board of Advisors recommends to the U.S. Election Assistance

Commission (EAC) that it conduct follow up study to help determine trends for website design for public information and that in designing such study it consult with State and local election officials to ensure that it takes into account State Laws and that such study includes information from the State and at least one local jurisdiction in each State." Mr. Cunningham seconded the amended motion.

Ms. Lynn-Dyson recommended changing the term "public information" to "voter information" in the amended motion. There were no objections and Ms. Markowitz accepted that change as a friendly amendment change. The motion to amend the original motion carried unanimously.

The Board voted on the amended motion that now reads: "That the Board of Advisors recommends to the U.S. Election Assistance Commission (EAC) that it conduct follow up study to help determine trends for website design for voter information portals and that in designing such study it consult with State and local election officials to ensure that it takes into account State Laws and that such study includes information from the State and at least one local jurisdiction in each State." The motion carried unanimously.

Ms. Markowitz read the following recommendation into the record: "That the Board of Advisors recommends to the U.S. Election Assistance Commission (EAC) that its further study of this issue include consideration of reducing the postage for the return of Absentee Ballots to one First Class Stamp." Ms. Thernstrom moved that the recommendation be adopted. Ms. Herrera seconded the motion. The Board discussed the motion. By a show of hands vote, the motion carried; it was not unanimous.

Ms. Markowitz read the following recommendation into the record: "That the Board of Advisors recommends to the U.S. Election Assistance Commission (EAC) that when it proceeds to conduct further study on voting fraud and voter intimidation, that it include a broad group of individuals and organizations in addition to law enforcement agencies when it collects data and information. The Board further recommends that EAC revisit the definitions in its 2006 Election Crimes Report and its classification of what constitutes election crimes." Ms. Arnwine moved that the recommendation be adopted. Mr. Jones seconded the motion. The Board discussed the motion.

Lunch:

The Board took a lunch break at 12:32 p.m. and reconvened at 1:09 p.m.

New Business (Cont'd):

Proposed Resolutions from the EAC Research and Studies Committee Report (Cont'd):

The Board continued its discussion at length about further study on voting fraud and voter intimidation. Many Board members spoke on the topic providing arguments for voting for the motion and for voting against the motion.

Ms. Markowitz made a motion to amend the motion on the floor to read: "That the Board of Advisors recommends to the U.S. Election Assistance Commission (EAC) that it follow up on the recommendations of the Fraud and Voter Intimidation Report of December 2006 and conduct further study to collect facts and information on voter intimidation and voter fraud in the States." Mr. Donsanto seconded the motion. The Board discussed the amended motion.

Based on the discussion Ms. Markowitz said she would accept as a friendly amendment to the amended motion the wording, "That the Board of Advisors recommends to the U.S. Election Assistance Commission (EAC) that it follow up on the recommendations of the Fraud and Voter intimidation Report of December 2006 and that it create a clearinghouse of State and Federal Statutes relating to election crimes," if there were no objections from the Committee. Discussion continued. Mr. Donsanto moved the question. Ms. Arnwine seconded. The Board voted by show of hands to move on the question. The motion carried.

The Board then proceeded with a vote by show of hands on the suggestion to amend the recommendation to read: "That the Board of Advisors recommends to the U.S. Election Assistance Commission (EAC) that it follow up on the recommendations of the Voting Fraud and Voter Intimidation Report of December 2006 and that it create a clearinghouse of State and Federal Statutes relating to election crimes and enforcement actions." The vote was 16 in favor and 12 against; the motion carried.

Discussion continued. Mr. Kliner made a motion to amend the amended motion to read: "That the Board of Advisors recommends to the U.S. Election Assistance Commission (EAC) that it create a clearinghouse of State and Federal Statutes relating to election crimes and enforcement actions." Mr. Donsanto seconded the motion. The Board discussed the motion. The motion to amend the amended motion carried unanimously.

The Board voted on the motion that now reads: "That the Board of Advisors recommends to the U.S. Election Assistance Commission (EAC) that it create a clearinghouse of State and Federal Statutes relating to election crimes and enforcement actions." The motion carried unanimously.

Ms. Markowitz returned to the motion on the Proposed Resolution that the Board of Advisors makes the recommendations presented in Attachment

B with respect to several research and study topics mandated in HAVA. The motion carried unanimously.

Ms. Markowitz reported that her term on the board was ending and that this is her last meeting. The board thanked Ms. Markowitz for her service.

Resolutions Committee Update Report:

Mr. Kliner reported that they have one resolution submitted by Ms. Brunelli, one by Mr. Nelson, two by Ms. Arnwine, one by Messrs Melick and Gardner, two by Mr. Dickson, and one by Ms. Noren, which has not been reviewed by the Committee as to form. The Committee briefly met to look at the resolution submitted by Ms. Noren while the Board stood at ease.

New Business (Cont'd):

Proposed Replacement Bylaws:

Mr. Lewis reported on the proxies. Ms. Noren has two votes, for her and Robin Carnahan. Mr. Lewis has three votes, for him, Mr. Hawkins, and Mr. Cunningham. Ms. Arnwine is not present so Arlan D. Melendez' vote is cancelled; Ms. Sautermeister has two votes, for her and Ms. Kaufman. Mr. Dickson currently has five votes as long as Ms. Arnwine is out of the room, for him, Mr. Orr, Ms. Markowitz, Mr. Jones and Ms. Arnwine. Mr. Donsanto has two votes, for him and Ms. Thernstrom.

Ms. Sautermeister moved that the Board accept replacement Bylaws in toto. Mr. Nelson seconded the motion. Ms. Sautermeister said she would like to go through the Articles, one at a time, to see if there are any second degree amendments to the Proposed Redrafted Bylaws of the U.S. Election Assistance Commission Board of Advisors.

There were no second degree amendments to Articles I or II.

Mr. Donsanto made a second degree amendment to delete Article III. Mr. Lewis seconded the motion. A discussion took place about proper voting procedures and about the motion. Mr. Lewis suggested that the motion be amended to say that Article III would read as follows: "Article III: Membership, Pursuant to Section 214(a) of HAVA, the Board shall consist of 37 members." Mr. Donsanto seconded the motion. The motion carried unanimously.

Concerning Article IV, Mr. Lewis made a second degree amendment to delete sections C.1.a., C.1.b., C.1.c. and C.1.d. and renumber C.1.e. as C.1. Mr. Kliner seconded the motion. The Board discussed the motion. The motion carried unanimously.

Concerning Article V, Mr. Lewis made a second degree amendment to delete section D. Mr. Donsanto seconded the motion. The Board discussed the motion. Ms. Sautermeister suggested that the motion be amended to say that section D would read as follows: "D. The

Designated Federal Officer (DFO) or his/her designee shall perform the duties as defined in the Federal Advisory Committee Act (FACA) and its associated regulations." It was noted that the citation will be added to the motion. Mr. Lewis seconded the motion. The motion carried, there was one vote in opposition.

Concerning Article V, Mr. Lewis made a second degree amendment to delete section C.2. and to add "to time" in the current C.5. Mr. Kliner seconded the motion. The motion carried unanimously.

Concerning Article VI, Ms. Noren made a second degree amendment to delete the words "and members of the public" from section I. Mr. Lewis seconded the motion. Ms. Thernstrom made a second degree amendment to change the first sentence of section G to read, "Meetings may only be called with at least a sixty (60) day notice." Mr. Lewis seconded the motion. The motion carried unanimously.

There were no second degree amendments to Article VII.

Ms. Arnwine reported that she proposed a series of amendments to the Bylaws regarding minute keeping procedures that would affect Articles VI and VIII. She believes there is a great need to have an accurate record of the Board's proceedings. Ms. Sautermeister said Board member did not have copies of the proposed amendment, but the proposed amendments were put on the audio-visual screen. The Board discussed the proposed amendments. Ms. Arnwine withdrew her amendments to the Bylaws.

Concerning Article VIII, Ms. Hegarty noted typographical errors; the word "certification" should be changed to the word "standards" in section 2.c. and 2.d. Noting no objection, Ms. Sautermeister accepted Ms. Hegarty's corrections. It was also noted that in section B.2.d.v., "Election Center" should be "The Election Center."

Ms. Purcell made a second degree amendment to Article IX, section A, to read: "The bylaws may be amended based on a 2/3 vote of the members present in person and by proxy and voting at any Board meeting." Mr. Lewis seconded the motion. The motion carried unanimously.

There were no second degree amendments to Articles X, XI or XII.

Ms. Sautermeister recapped that second degree amendments were made to articles in the bylaws by simple majority. Mr. Lewis made a motion to adopt the report as amended by the Board. Mr. Donsanto seconded the motion. Ms. Sautermeister said that the motion requires a super majority to pass. It was noted that there was already a motion on the floor. Mr. Lewis said his motion was to call the question. Ms. Sautermeister asked all those who were in favor of calling the question to signify by saying "aye." The motion carried. Ms. Sautermeister said the original motion was to accept the Bylaws as a whole with the amendments that have been voted on today, that would be codified and clarified by the DFO and

the Secretary. Ms. Sautermeister asked all those in favor of the amended Bylaws, as presented and amended, to raise their hand. 25 voted in favor, 3 voted against. The motion carried.

Resolutions:

Mr. Kliner asked that the record reflect that a resolution was circulated earlier today that was approved unanimously by voice vote at the December 2007 meeting, but was not printed and included in the materials everyone received. It was Resolution 21 and it states, "Whereas, The United States Election Assistance Commission (EAC) is an agency of the United States federal government created by the Help America Vote Act of 2002 (HAVA); and Whereas, the Board of Advisors recognizes the importance of ballot design for its impact on the ability of voters to have their votes counted; and Whereas the Board of Advisors commends the EAC for its role in working to improve ballot design and layout and further commends the EAC for studies such as those by Design for Democracy; now, therefore, be it Resolved, That the Board of Advisors recommends and encourages the EAC to establish a high priority for additional studies which can lead to better voting equipment and better paper ballots. Be it further resolved that the Board of Advisors requests that the EAC look at uses of icons, special fonts, design and typeface features, as well as design problems caused by numbers of candidates on the ballot or numbers of referenda or other concerns."

Mr. Kliner said that 8 resolutions have been proposed and all have been reviewed by the Resolutions Committee for compliance with the form. All were found to be proper and are being submitted to the Board for consideration.

Mr. Kliner reported the first proposed resolution was submitted by Mr. Nelson and it states: "Whereas, The United States Election Assistance Commission (EAC) is an agency of the United States federal government created by the Help America Vote Act of 2002 (HAVA); and Whereas, HAVA requires the EAC to test, certify and de-certify voting equipment, hardware, and software; and Whereas, the EAC certification program replaced a volunteer program operated by the National Association of State Election Directors (NASSED); and Whereas, the EAC decided that it would not recognize any of the certification testing performed by NASSED; and Whereas, the decision combined with very slow development of the EAC certification program has caused a backlog of systems waiting to be certified; and Whereas, that backlog has led to States conducting 2008 primary elections with voting equipment, hardware, and software in need of improvement; and Whereas, common practice since the introduction of electronic voting systems has been to make hardware and software upgrades based on issues found in the most recent election in sufficient time to improve the voting systems for the next general election; and Whereas, it appears likely that the continued backlog will cause States for the first time in history to conduct a general election without the benefit of upgraded voting equipment, hardware, and software; and Whereas, the apparent inability of the current EAC certification system to accommodate

the needs of election officials, equipment vendors, and voters is causing States to consider moving away from Federal certification requirements, which will lead to varying standards in each of the 50 States; now, therefore, be it Resolved, That the Board of Advisors strongly encourages the EAC to provide the focused leadership needed to resolve the impasse created by the developing certification system and remove every unnecessary certification barrier and roadblock in order to ensure certification of needed system improvements in time for use in the 2008 general election." Mr. Nelson spoke to his proposed resolution. The Board discussed the proposed resolution. Chair Thomas asked Mr. Cunningham to work with Mr. Nelson to see if the language of the resolution could be amended based on the Board's discussion. The resolution was tabled.

Mr. Kliner reported that the next proposed resolution was submitted by Ms. Brunelli and it reads: "Whereas, The United States Election Assistance Commission (EAC) is an agency of the United States federal government created by the Help America Vote Act of 2002 (HAVA); and Whereas, the EAC is mandated under the Uniformed and Overseas Citizens Absentee Voting Act, (UOCAVA) Section 102(c), to receive a report from each State and unit of local government no later than 90 days after each regularly scheduled general election for Federal office on absentee ballots transmitted to absent uniformed services voters and overseas voters, and the number of such ballots returned and cast in the election; and Whereas, the EAC's UOCAVA report provides information that may be used to affect public policy; and Whereas, the collection of quality data as required by UOCAVA is essential for proper evaluation of the administration of the absentee voting process; and Whereas, the Board of Advisors convened a special committee on research studies in May 2008 to discuss EAC research and studies; now, therefore, be it Resolved, That the Board of Advisors makes the recommendations in Attachment C regarding the EAC's UOCAVA report." Attachment C states, "Topic: UOCAVA report, Section 102(c) RECOMMENDATION: That the Board of Advisors work with the EAC to ensure that all future reports published by the EAC meet OMB Guidelines, 67 FR 8452, February 22, 2002, established under Section 515 of P.L. 106-554, which requires Federal agencies to ensure and maximize the quality, objectivity, utility and integrity of the information they disseminate. And that the Board of Advisors recommends to the EAC that until they improve their methodology for data collecting and reporting, the EAC only conduct, and not report, 2008 election census data provided directly from the individual States as required by UOCAVA, Section 102(c), as the UOCAVA seems to place the dissemination duty on the States." Ms. Brunelli spoke to her proposed resolution. The Board, Mr. Wilkey, Commissioner Davidson and Commissioner Hillman discussed the proposed resolution. After an agreement between Ms. Brunelli and Mr. Wilkey to work together on analyzing reporting requirements, the proposed resolution was withdrawn without objection.

Mr. Nelson reported on changes to his proposed resolution that the Board had tabled for further amendment. Mr. Kliner read the amended

proposed resolution into the record: "Whereas, The United States Election Assistance Commission (EAC) is an agency of the United States federal government created by the Help America Vote Act of 2002 (HAVA); and Whereas, HAVA requires the EAC to test, certify and de-certify voting equipment, hardware, and software; and Whereas, the EAC certification program replaced a volunteer program operated by the National Association of State Election Directors (NASSED); and Whereas, the EAC decided that it would not recognize any of the certification testing performed by NASSED; and Whereas, that decision, combined with the very slow development of the EAC certification program, has caused a backlog of systems waiting to be certified; and Whereas, that backlog has led to States conducting 2008 primary elections with voting equipment, hardware, and software in need of improvement; and Whereas, the common practice since the introduction of electronic voting systems has been to make hardware and software upgrades based on issues found in the most recent election in sufficient time to improve the voting systems for the next general election; and Whereas, the current EAC certification system is causing States to consider moving away from Federal certification requirements, which will lead to varying standards in each of the 50 States; now, therefore, be it Resolved, That the Board of Advisors strongly encourages the EAC to resolve the impasse created by the developing certification system and remove every unnecessary certification barrier and roadblock in order to ensure certification of needed system improvements in time for use in the 2008 general election." The Board, EAC Chair Rodriguez and Mr. Wilkey discussed the proposed resolution. Mr. Nelson agreed to amend the last sentence to read: "now, therefore, be it Resolved, That the Board of Advisors strongly encourages the EAC to continue working to resolve the impasse created by developing certification systems and remove certification barriers and roadblocks in order to ensure certification of needed system improvements in time for use in the 2008 general election." The Board voted and the resolution carried unanimously.

The Board agreed to just read the "Resolved" clauses into the record for remaining proposed resolutions.

Mr. Kliner reported that the next proposed resolution was submitted by Ms. Arnwine and the "Resolved" clause reads: "now, therefore, be it Resolved, That the Board of Advisors recommends that the EAC conduct a study to examine the effect of the Law in Indiana at the precinct level including an effort to determine how many voters are unable to vote due to lack of ID, whether these voters are provided a provisional ballot, and if those ballots are counted." Ms. Arnwine spoke to her proposed resolution. The Board discussed the proposed resolution. The Board voted and the proposed resolution did not carry.

Mr. Kliner reported that the next proposed resolution was submitted by Mr. Dickson. He read into the record one "Whereas" clause, as well as the "Resolved" clause: "Whereas, in 2000 the Government Accountability Office conducted a National polling place accessibility survey, which reported only 20% of the Nation's polling places were accessible; now,

therefore, be it Resolved that the Board of Advisors recommends to the EAC that it contact local State election officials and urge their cooperation with this year's survey." Mr. Dickson spoke to his resolution. The Board discussed the proposed resolution. The Board voted and the proposed resolution carried.

Mr. Kliner reported that the next proposed resolution was submitted by Mr. Melick and Mr. Gardner and the "Resolved" clause reads: "now, therefore, be it Resolved, That the Board of Advisors recommends that the EAC develop a quick start guide on accessibility and disability issues and that in the process of developing the guide, it invite participation by known Board of Advisor members with accessibility expertise." Mr. Melick spoke to his proposed resolution. The Board and Mr. Wilkey discussed the proposed resolution. The Board voted and the proposed resolution carried unanimously.

Mr. Kliner reported that the last proposed resolution was submitted by Ms. Noren and the "Resolved" clause reads: "now, therefore, be it Resolved, That the Board of Advisors requests the EAC to lead an effort to educate the media, campaigns, and the public that the accurate tabulation of results will be compromised by the ongoing emphasis of speed over accuracy." Ms. Noren spoke to her proposed resolution. The Board discussed the proposed resolution. The Board voted and the proposed resolution carried unanimously.

Message from Mr. Kliner:

Mr. Kliner reported that this may be his last meeting. He said it has been his pleasure and honor to have served with every member of the Board. The board thanked Mr. Kliner for his service.

Adjournment:

The meeting adjourned at 4:05 p.m.