

# **Minutes of the Public Meeting United States Election Assistance Commission**

1225 New York Avenue, NW  
Suite 150  
Washington, DC 20005

The following are the Minutes of the Public Meeting of the United States Election Assistance Commission (“EAC”) held on Wednesday, June 17, 2009. The meeting convened at 1:01 p.m., EDT. The meeting was adjourned at 4:25 p.m., EDT.

## **PUBLIC MEETING**

### **Call to Order:**

Chair Gineen Bresso Beach called the meeting to order at 1:01 p.m., EDT.

### **Pledge of Allegiance:**

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

### **Roll Call:**

#### **EAC Commissioners:**

Deputy General Counsel Gavin Gilmour called roll of the members of the Commission and found present: Chair Gineen Bresso Beach, Vice-Chair Gracia Hillman, and Commissioner Donetta Davidson. Three members were present for a quorum.

#### **Senior Staff:**

Executive Director Thomas Wilkey, Deputy General Counsel Gavin Gilmour

#### **Panelists:**

Dr. Mark W. Abbott, Director of Grants; Karen Lynn-Dyson, Director for Research, Policy and Programs; Dr. Diana Davis, ICF; Dr. Toby Moore, RTI International; David Burgess, Deputy Secretary for Planning and Service Delivery, Pennsylvania Department of State; and, Sarah Ball Johnson, Executive Director, Kentucky State Board of Elections

## **Adoption of the Agenda**

Commissioner Davidson made a motion to amend the meeting agenda by removing panelist Warren Stewart's name due to his inability to attend and present testimony, because of illness. Chair Beach noted that upon the submission of Mr. Stewart's testimony it would be added to EAC's website and made available to the public. Vice-Chair Hillman seconded the motion. The motion carried unanimously.

## **Welcoming remarks**

Chair Beach extended a welcome to all in attendance and congratulated Bob Carey, who was recently appointed as Director of the Federal Voting Assistance Program (FVAP).

## **Old Business:**

### **Approval of the minutes from the previous meeting**

Vice-Chair Hillman requested that the Commission defer voting on the minutes from the May 19, 2009, EAC public meeting until later in the meeting to allow her an opportunity to check on one item that she was not able to do beforehand. Chair Beach agreed to the request.

### **Report from the Executive Director**

Executive Director Thomas Wilkey extended a welcome to everyone in attendance, providing the following update on activities that have occurred since the May 19, 2009, public meeting:

Under Grants, applications for the mock election and college poll worker grant programs are currently being accepted, for which information on both eligibility and how to apply are available on EAC's website. Peer reviewers are being sought to evaluate these two programs, for which additional information regarding both requirements and compensation are available on the website.

With regard to Requirements Payments, Mr. Wilkey reported that to date \$35 million of the \$215 million in requirements payments available in 2008 and 2009 has been disbursed. This includes \$15.3 million that was disbursed within the last several weeks to the following states: \$798,107 to Nevada; \$1.61 million to Kentucky; \$1.72 million to Louisiana; and \$2.76 million to Georgia. It also includes \$2 million to Arkansas and \$6.5 million to Florida that are

currently being processed and the \$20 million that was previously disbursed as follows: \$575,000 to the States of Montana, Idaho, Wyoming, North Dakota, Rhode Island and South Dakota; \$1.17 million to Iowa; \$1.37 million to Oregon; \$1.36 million to Oklahoma; \$1.36 million to Connecticut; \$1.92 million to Minnesota; \$1.7 million to Colorado; \$3.17 million to Georgia; and, \$4.92 million to Pennsylvania.

A more streamlined process for obtaining requirements payments has been instituted and states may now apply for 2008 and 2009 funds simultaneously. A technical assistance call will be held the following day, June 18, to answer states' questions about this new process. A new HAVA funding advisory opinion request has been posted, for which comments are being accepted through July 1, 2009.

Under Voting System Testing and Certification, Mr. Wilkey reported that the 120-day HAVA mandated comment period for the proposed revision to the 2005 VVSG commenced June 1, 2009. A copy of the proposed revisions along with instructions on how to comment have been posted online, and an online comment tool is in the process of being prepared to which everyone will be alerted when it is ready. All stakeholders are encouraged to share their input in this important comment period. In addition, Mr. Wilkey was pleased to report that a draft test plan from Wyle Laboratories for the Unisyn OpenElect voting system, release 1.0 has been posted to the website, which is the first test plan that follows the recently issued notice of clarification on test plan formats.

With regard to the transfer of NVRA regulations to the EAC, Mr. Wilkey reported that the transfer process was initiated July 2008, by sending a draft of the *Federal Register* notice to the FEC. The FEC Regulations Committee recently approved a draft of the notice, and last week provided the draft to EAC staff, which it is currently reviewing and editing. After both agencies agree on the language of the *Federal Register* notice, the draft will be forwarded to EAC's Commissioners for a full vote.

Mr. Wilkey reported that a meeting of the Board of Advisors was recently held where they were updated on recent EAC activities including the revision of the 2005 VVSG and the Election Data Collection report, for which information on the meeting (including the agenda, presentations and reports) are available on EAC's website. Mr. Wilkey extended his congratulations to the newly elected officers of the Advisory Board who are as follows: Jim Dickson, Chair; Keith Cunningham, Vice-Chair; and, Secretary Terri

Hegarty. Mr. Wilkey concluded his report by announcing that the EAC Standards Board would be meeting in early August to discuss the revisions to the 2005 VVSG. More information about the meeting will be made available on EAC's website.

### **Questions and Answers:**

Commissioner Hillman requested clarification that Jim Dickson is with the American Association of People with Disabilities and not AARP. Mr. Wilkey clarified that Mr. Dickson is with AAPD, not AARP. In response to Vice-Chair Hillman's inquiry, Mr. Wilkey reported that to date Georgia is the only state that is receiving both 2008 and 2009 requirements payments. Mr. Wilkey also advised Vice-Chair Hillman that the Commissioners would be notified of the edits that are being made to the draft of the *Federal Register* notice regarding the NVRA regulations via a memo that the General Counsel's office is in the process of preparing.

Commissioner Davidson also commented that while Georgia is the only state that is receiving 2008 and 2009 requirements payments, it appears that other states are currently pending in the process, but stated that when the report is given, it can be clarified.

In response to Chair Beach's question, Mr. Wilkey explained that EAC has utilized peer reviewers in the past with a number of its grant programs, particularly with the college poll worker grant program.

### **New Business:**

#### **Update on EAC Guidance to States for Receiving 2009 Requirements Payments**

Dr. Mark W. Abbott, Director of Grants, addressed the Commission to provide an update on the distribution of requirements payments, the new process that has been implemented, and an update on the status report that will be provided to Congress by mid July regarding how states have spent their HAVA funds.

Dr. Abbott first reported that to date 15 states have certified that they are Title III compliant (complying voting systems and statewide voter registration systems and improving the administration of federal elections) and another 15 states have certified that they are using their minimum payment towards improving the administration of federal elections. Approximately 75 percent of the requirements payments for 2008 have been expended by states, which drops off

to 69 percent when including the \$215 million in interest since the first ones were disbursed. Section 102 funds have been expended with one exception, and approximately 71 percent of Section 101 funds have been expended.

Dr. Abbott next highlighted some of the instructions that were written into the 2008 and 2009 requirements payments and were incorporated to reduce risks for grantees and help states access funds more expeditiously, which included the following: More flexibility concerning what constitutes a material change, a clearer explanation of matching funds, and improving transparency through a Notice of Grant Award. Dr. Abbott explained that the states that were pending receipt of requirements payments were at various stages in the process. He concluded by pointing out two areas where guidance will be provided in the future pertaining to giving states additional guidance on maintenance of effort and providing better instructions on state plan modifications.

#### **Questions and Answers:**

In response to Vice-Chair Hillman's question regarding what limitations EAC has regarding its flexibility over what constitutes a material change to a state plan, Dr. Abbott explained that additional funds that are infused into a state plan to do the same activities from the year prior does not constitute a material change to their budget, but basically refinances the activities that were previously approved. Secondly, the amount of money coming in, and whether or not that was over ten percent of the total amount they had been allocated for the requirements payments, from the inception, was looked at, and in most cases it does not meet the ten percent threshold, and thus is not considered a material change. Vice-Chair Hillman asked Dr. Abbott how states are informed that an allocation of funds has tripped a material change to their state plan, to which he replied that states are directed to the published guidance on what constitutes a material change, and it is up to them to determine whether any changes they have made constitute something that will require public input and making necessary changes to their plan. Vice-Chair Hillman asked Dr. Abbott what resources/tools are at states' disposal for effectively managing their requirements payments, to which he identified that there are circulars, advisory opinions, frequently asked questions and policies posted on EAC's website to aid states. In addition, they have the ability to speak directly to EAC staff via telephone. Concerning what could be done in terms of best practices, to provide guidance to states regarding the availability of resources to help them manage their requirements payments, Dr. Abbott

suggested that this could be accomplished by the following means: Providing custom material around the circulars and the statute, i.e., compiling a core competencies for HAVA funds management document, providing direct technical assistance primarily through an outside contractor, and revising EAC's website to make it more user friendly. Dr. Abbott also pointed out another best practice EAC could employ in order to allow grantees who have applied for, received and are ready to spend funds would be through the application process or providing a response in a shorter turnaround time, preferably one to five days.

In answer to Commissioner Davidson's question regarding what the general response from states have been to the availability to apply for 2008 and 2009 requirements payments simultaneously, Dr. Abbott commented that the overall response has been fairly positive. In response to why only 15 states have met Title III certification requirements, Dr. Abbott commented that a census is underway to determine where states are in their certification process, pointing out the low number indicates that there is a need for states to be provided with better technical assistance/support and if this were done he would expect the figures to improve. At the request of Commissioner Davidson, Dr. Abbott reviewed the process that is place for approving state spending of any amount of money over \$5,000, to which Dr. Abbott pointed out that several states did not seek preapproval and are in the process of asking for forgiveness. Commissioner Davidson asked Dr. Abbott whether this is the most effective area that EAC can exercise its authority over how states spend their requirements payments, in addition to whether a state could put in their state plan an emergency fund in the event of natural disasters/emergencies. Dr. Abbott commented that given the time constraints that EAC was under in the beginning to disburse the funds to the states as mandated, it appropriately weighed in and used its authority to ensure that states were not spending their funds inappropriately. Now that the EAC has a track record and a body of information, Dr. Abbott encouraged the EAC to work with states upfront prior to the submission of their plans, which will allow them the flexibility that is needed in the event of emergencies/disasters and will also result in a smoother audit process.

In response to Chair Beach's inquiry regarding how the ability to apply for 2008 and 2009 requirements payments simultaneously impacts the five percent match, Dr. Abbott explained that states are still required to provide the match. States that get the full amount of match into their state budget will provide it upfront into the fund and then they'll receive the money once they've told EAC it's there.

States that only have a portion of their match can receive up to that amount of the federal funds equal to the amount of match they have. For the benefit of the audience, Dr. Abbott also reviewed the process that EAC goes through when it receives a state plan per Chair Beach's request. Dr. Abbott clarified that while EAC does not approve or make determinations regarding state plans, it does provide assistance/notice to states in order to ensure that all the right ingredients are in place and thereby reduce risks on the part of states. Chair Beach had one last final question about when the final version of the report on how states have spent their HAVA funds would be available. Dr. Abbott responded that it would be approximately two weeks before the Commissioners would receive a draft to review before it could be printed and sent to the Hill.

In response to Commissioner Davidson's follow-up question regarding whether every state has submitted their information for the report that will be sent to Congress by mid July, concerning the expenditure of requirements payments, Dr. Abbott reported that to date only two states are remiss in doing so.

### **Discussion of Report to Congress: Election Data Collection Grant Program Evaluation**

Chair Beach was pleased to introduce Karen Lynn-Dyson, Director for Research, Policy and Programs, and Dr. Diana Davis, ICF International, providing a brief explanation of the \$10 million grant program regarding election data collection that was funded by Congress and awarded to the following states in the amount of \$2 million each: Pennsylvania, Minnesota, Ohio, Illinois and Wisconsin. Chair Beach stated that the Commission will be conducting a tally vote of the report on the grant program, due to Congress by June 30, 2009, which will thereafter be distributed to the public and posted on its website.

Ms. Lynn-Dyson briefly reviewed, for the benefit of the audience, how the five grantee states were selected. The early feedback about the program is that it has been an overall success and EAC research staff is in the process of exploring some options/venues in which the five grantee states can share their experiences, best practices and challenges as part of the program. Ms. Lynn-Dyson concluded her introductory remarks by pointing out that EAC's Board of Advisors' input/feedback regarding the report prepared by ICF has been very valuable in moving towards the completion of the final report due to Congress by June 30, 2009.

Dr. Diana Davis, ICF, addressed the Commission to provide testimony with regard to how the five grantees performed in their programs, which included an overview of the critical differences in each of their programs, the challenges they faced and their outcomes. Ms. Lynn-Dyson pointed out, for the benefit of the public, that the program specifically utilized six questions contained on the 2008 Election Day survey, which the five grantee states were asked to collect precinct-level data on.

### **Questions and Answers:**

In response to Vice-Chair Hillman's inquiry into whether the states have since provided any recommendations to what they learned about their efforts to collect data at the precinct level, Dr. Davis said that the states suggested having the survey well in advance, as much as one year or two years, in order to have time to work with their voting tabulation vendors, and also the ability to predict the core items that will be contained on the survey. In response to Vice-Chair Hillman's inquiry into how long it would take to develop a survey that could be released to states two years in advance, Dr. Davis pointed out that in her opinion after five years the EAC should have an appreciation for the type of data that is necessary, required or requested by all stakeholders involved. Dr. Davis suggested that an evaluation be conducted each year, however, to determine that everyone involved agrees. Dr. Davis responded to Vice-Chair Hillman's final question regarding whether she had any comment on the value of collecting data at the precinct level by stating it would be unfair for her to say one way or the other due to the fact that she is not a data user of the data file, other than in the evaluation sense.

In response to Commissioner Davidson's question regarding the length of time a survey should be utilized before EAC considers assessing whether any changes should be made, Dr. Davis commented that due to the extremely complex nature of the survey she would be hesitant to suggest that the survey remain unchanged for just one time, pointing out that due to the fact that the EAC has gradually accumulated knowledge over the past several years it will be some time. To the extent any changes to the survey come from voter activity and it is tied up in the data collected at the machine level, Dr. Davis stressed that is the piece that needs to start well in advance.

In response to Chair Beach's question on what type of collaboration Dr. Davis saw between the five grantee states and their local election jurisdictions in order to collect the data, Dr. Davis noted



that two states used online questionnaires and three of the five states did field tests utilizing local election people.

### **Recommendations:**

Ms. Lynn-Dyson outlined the following recommendations for the Commission's consideration as contained in the Election Data Collection Grant Program Evaluation Report as prepared by ICF:

- Heighten EAC's visibility among state and local election officials.
- Provide support to states and local jurisdictions with less sophisticated systems.
- Facilitate dialogue among both the 2008 grantees and the elections community at large.
- Continue to address the need for national election data reporting standards.

Ms. Lynn-Dyson concluded by encouraging the Commissioners to consider further research/study in order to understand fully the costs that are associated with the collection of election data, suggesting that research staff spend time talking with the five grantee states about their experiences and costs in order to provide a more in-depth analysis to Congress in the future. Commissioner Davidson concurred with Ms. Lynn-Dyson that Congress needs to be supplied with additional information that cannot be provided in the report that is due to them by June 30, 2009. Commissioner Davidson emphasized it will be very important to inform Congress regarding the length of time it would take to collect data that is not and cannot be reported electronically at the precinct level.

In response to Vice-Chair Hillman's question, Ms. Lynn-Dyson confirmed that the report EAC will be sending to Congress will include the report prepared by ICF, along with its recommendations, in addition to a cover letter and the Commission's recommendations/suggestions. Ms. Lynn-Dyson also pointed out that she interprets the language in the appropriation which reads "such recommendations as the Commission sees appropriate" to mean that Congress is very interested, open, and willing to hear the Commission's insight into what it considers to be appropriate for improving the collection of election data. In response to Vice-Chair Hillman's inquiry into whether the report would have benefited from a longer timeframe,

Dr. Davis commented that EAC may want to consider obtaining that opinion from the five grantee states.

At the request of Vice-Chair Hillman, Deputy General Counsel provided an overview of what is involved in a tally vote, for the benefit of the audience who were not familiar with the process. Ms. Lynn-Dyson confirmed that the Commission's recommendations to Congress via a tally vote would be based on the day's discussions.

In response to Executive Director Wilkey's inquiry on whether any of the five grantee states could be used as a model by other states for data collection, Dr. Davis noted that two of the states' plans had a very holistic approach. Mr. Wilkey requested that in an effort to begin a study on the cost of running elections, per the Board of Advisors' recommendation, that Dr. Davis and Dr. Moore provide the EAC with any recommendations it may have gleaned while working with the five grantee states.

### **Discussion of Report to Congress: Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 2007-2008**

Chair Beach reintroduced Ms. Lynn-Dyson, along with Dr. Toby Moore, Research Triangle Institute (RTI), providing a brief explanation regarding the intent of the National Voter Registration Act 2007-2008 report. Chair Beach stated that the Commission will be conducting a tally vote of the report on the grant program that is due to Congress by June 30, 2009, which will thereafter be distributed to the public and posted on its website.

Ms. Lynn-Dyson addressed the Commission to point out that this is the eighth NVRA report to Congress; however, pursuant to the provisions of the NVRA, as amended by HAVA, it is the third report submitted by the EAC. The first five reports having been submitted by the Federal Election Commission (FEC). The information contained in the report is based on data collected from the 2008 Election Day survey, and in the coming months EAC staff and RTI will be presenting the Commission with the 2008 UOCAVA report along with the overall findings from the 2008 survey.

Dr. Toby Moore, RTI, addressed the Commission to provide a brief overview regarding RTI's process for the data collection along with the lessons it learned from the process.

### **Questions and Answers:**

In response to Vice-Chair Hillman's question on what stood out about the information being reported in the context of the purpose of NVRA, Dr. Moore pointed out the period between 2006-2008 was a very busy period for election officials and their offices were under quite a bit of strain. In answer to Vice-Chair Hillman's inquiry about what the data contained in the report would tell a member of Congress, he stated that it would be the incompleteness of the data/inability for states to report data due to insufficient tracking systems; and, secondly, the slow pace of being able to integrate technological improvements into states' systems. In response to Vice-Chair Hillman's final question regarding whether Dr. Moore found any state laws or procedures that prevent states from reporting data that is requested by EAC, he replied that it is mainly just local autonomy and decentralized systems that prevents the reporting of data as opposed to state laws.

In response to Commissioner Davidson's question regarding how much time would be involved in tweaking the Election Day survey, as suggested by Dr. Moore, Ms. Lynn-Dyson explained that if relatively minor changes were made to the survey, a draft could be released to the states in the July/August 2009 timeframe, and that it would not be a final document until the fall of 2009. If substantial changes were made to the survey, a draft could be released to the states in the October/November 2009 timeframe, and that it would not be a final document until late 2009, early 2010.

In response to Chair Beach's question on what states' response rates were to the 2008 survey, Dr. Moore commented that it is gradually improving due to the fact that states see it as a part of their normal responsibilities of work flow, and also there's been more national attention on the survey. If efforts are put into releasing the 2010 survey well in advance, and providing technical assistance, he anticipates seeing a sharp jump in states' response rates. In response to Chair Beach's inquiry, Ms. Lynn-Dyson confirmed that the datasets will be released along with the final NVRA report to Congress. The datasets will be available on the website after the report release.

### **Recommendations:**

Ms. Lynn-Dyson outlined the following recommendations for the Commission's consideration as contained in the 2007-2008 NVRA report as prepared by RTI:

- States should continue to improve and modernize their electronic reporting and list maintenance systems.

- States should explore supporting a coordinated data collection effort that allows local jurisdictions to provide election data to their state election offices.
- States should provide EAC with information on their proven best practice models of election data collection in order to facilitate sharing with all states through EAC's clearinghouse function.
- States are encouraged to use technology to ease the workload on their election offices, as they deem appropriate.
- States should encourage their public service agencies to remind voters to check and update their registration information.
- For the purpose of creating comparable election data from future EAC election administration and voting surveys, EAC will continue to work towards a common understanding of election terms.

Vice-Chair Hillman and Commissioner Davidson noted they had no questions, pointing out that they concurred with the recommendations as outlined.

**[The Commission recessed from 3:18 p.m. until 3:28 p.m.]**

**New Business: (Cont'd)**

**Discussion of 2010 Election Day Survey**

Ms. Lynn-Dyson led off the discussion of the 2010 Election Day survey by commenting briefly about her understanding and appreciation of the time and effort that is required by states to both configure/reconfigure their election data collection systems.

**Panelist:**

Chair Beach was pleased to introduce and welcome David Burgess, Deputy Secretary for Planning and Service Delivery, Pennsylvania Department of State.

Mr. Burgess addressed the Commission to provide testimony regarding Pennsylvania's experiences with the 2004,

2006 and 2008 Election Day surveys, Pennsylvania's overall perspective of the Election Day survey instrument, and to address potential impacts that may result from making changes to the 2010 survey instrument. Mr. Burgess stated that continuity is an important aspect of improving survey data collection efforts among the states, and it is also important to consider and clearly identify which data elements are most crucial from the EAC's perspective, and package the document in such a way that the data is always collected. Mr. Burgess pointed out that concentrating on the 2012 election may be more effective. Defining and identifying the types of Election Day challenges required for 2012 in advance of next year's election, and prioritizing the information would allow states and local jurisdictions to strategically develop effective methodologies for building what is needed into the systems in a multi-year approach, while also training poll workers and collecting the requested information. The high priority information may be implemented prior to the 2010 election.

**Panelist:**

Chair Beach was pleased to introduce and welcome Sarah Ball Johnson, Executive Director, Kentucky State Board of Elections.

Ms. Johnson addressed the Commission to provide testimony regarding her experiences and frustrations in completing previous Election Day surveys, and to also address the impact that making changes to the survey for 2010 would have on Kentucky's ability to respond to the survey instrument. Ms. Johnson emphasized the importance of states knowing the exact EAC data entry tool to utilize in capturing the correct information, i.e., county-level or statewide data. Ms. Johnson urged the Commission to not change the Election Day survey until further study is done to evaluate the validity of the questions contained on the 2008 survey.

**Questions and Answers:**

In response to Vice-Chair Hillman's question about what manual intervention encompasses and the critical stages at which it is or is not helpful, Mr. Burgess described Pennsylvania's electronic data warehouse, created to store election data, such as voter registration, voter turnout and Election Night returns. The data had to then be manually cut and pasted into each individual spreadsheet that was supplied by RTI as part of the pilot project, which was very time consuming. Mr. Burgess explained some of the anomalies that can occur in the reporting of data at the precinct and county levels, pointing out that some tweaking to the survey

could be done at EAC's side, if it does not couple the data collection instrument with states' actually having to submit the data. In response to Vice-Chair Hillman's inquiry into the number of survey questionnaires that she has received following a federal election and whether she is able to respond to all of them, Ms. Johnson stated that she received 75 surveys during October/November 2008 from various groups, the media and entities looking for pre-lawsuit discovery, and that in many cases their questions overlap. In response to Vice-Chair Hillman's final question regarding whether both Ms. Johnson and Mr. Burgess have had an opportunity to compare how each state collects its Election Day survey data and transfers it to the form which is submitted to EAC, Ms. Johnson commented that an official comparison was not done, stating that there would be quite a difference, because Pennsylvania is further ahead technology-wise compared to Kentucky's data entry method. Mr. Burgess concurred that states seldom have time to discuss how they collect and report data, suggesting that all states address their understanding of the entire evolution of the election itself.

In response to Commissioner Davidson's question regarding the amount of time that would be involved if Kentucky had to manually enter all the Election Day survey data elements at the precinct-level, Ms. Johnson commented that it took her 166 hours to complete the 2008 survey on a county-level basis; doing so at the precinct-level would take a tremendous amount of time and that it would place an additional burden on the counties. Mr. Burgess pointed out that one anomaly in many election systems is that it's rolling data. Mr. Burgess commented on the importance of EAC setting priorities, in addition to change management, when developing surveys so that states can expend the funds necessary to then meet those priorities in the required timeframe. In response to Commissioner Davidson's question regarding whether counties have the ability to report problems with voting equipment that are encountered on Election Day at the state level, Mr. Burgess explained that Pennsylvania has a system in place on Election Day which it captures all issues that are reported, utilizing a three-tiered approach for phone calls on various issues that are happening. Mr. Burgess further commented that it is important to understand what a reportable issue is, because just capturing data may result in more of a disservice due to the fact that many individuals may misread what the data actually means. Ms. Johnson commented that Kentucky, likewise, has a system in place in which it works with its counties to ascertain issues involving problems with voting equipment, in which it relies heavily on phone calls, pointing out that the difficulty on Election Day, that everything is happening so

fast and so intense that it is hard to, number one, define the problem; and, number two, track down if the problem actually occurred. Ms. Johnson stated that in her opinion, getting a national definition of what a voting system anomaly is may be more difficult than fixing the Election Day survey process.

In response to Chair Beach's question regarding the types of questions Ms. Johnson recommends being dropped from future Election Day surveys, because they may be outdated or do not provide as much value, (aside from the UOCAVA data which she cited in her testimony), Ms. Johnson pointed to the sections on Election Day registration and Internet voting could be eliminated due to the fact that most states' laws have not changed in these areas, in addition to the section on statutory overview which was filled out and submitted to EAC in advance of the 2008 survey. Ms. Johnson pointed out that while the section on voting equipment was very laborious to fill out, the spreadsheet that was provided by RTI was excellent in that it had internal checks built into it which were very useful. Mr. Burgess commented that the spreadsheet had improved one hundred percent from previous years, but for states such as Pennsylvania that report everything electronically, it was not the best process to go through.

In response to Executive Director Wilkey's inquiry into whether the type of additional pertinent data that would enhance future Election Day surveys has ever been addressed at meetings of the National Association of State Election Directors (NASSED), Ms. Johnson commented that while past discussions have been focused on the negative, how states do not like the current survey, attempts will be made to focus more on the positive aspects.

Chair Beach thanked the panelists for their participation, noting that the information they provided will be very helpful to EAC as it moves forward in evaluating the Election Day survey instrument.

### **Old Business: (Cont'd)**

#### **Approval of the Minutes from Previous Meeting**

Vice-Chair Hillman moved adoption of the minutes from the May 19, 2009, public meeting of the EAC. Commissioner Davidson seconded the motion. The motion carried unanimously.

Chair Beach concluded the public meeting by thanking everyone for their participation.

**The public meeting of the EAC adjourned at 4:25 p.m.**