

# **EXHIBIT A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

NORTH CAROLINA STATE CONFERENCE )  
OF THE NAACP, EMMANUEL BAPTIST )  
CHURCH, NEW OXLEY HILL BAPTIST )  
CHURCH, BETHEL A. BAPTIST )  
CHURCH, COVENANT PRESBYTERIAN )  
CHURCH, CLINTON TABERNACLE AME ) 30(b)(6) Deposition of  
ZION CHURCH, BARBEE'S CHAPEL ) North Carolina State Board  
MISSIONARY BAPTIST CHURCH, INC., ) of Election by  
ROSANELL EATON, ARMENTA EATON, ) Kim Westbrook Strach  
CAROLYN COLEMAN, BAHEEYAH )  
MADANY, JOCELYN FERGUSON-KELLY, )  
FAITH JACKSON, MARY PERRY, and )  
MARIA TERESA UNGER PALMER, )  
)  
Plaintiffs, )  
)  
vs. ) Case No: 1:13-CV-658  
)  
PATRICK LLOYD MCCRORY, in his )  
official capacity as the )  
Governor of North Carolina, KIM )  
WESTBROOK STRACH, in her )  
official capacity as Executive )  
Director of the North Carolina )  
State Board of Elections, JOSHUA )  
B. HOWARD, in his official )  
capacity as Chairman of the )  
North Carolina State Board of )  
Elections, RHONDA K. AMOROSO, in )  
her official capacity as )  
Secretary of the North Carolina )  
State Board of Elections, JOSHUA )  
D. MALCOLM, in his official )  
capacity as a member of the )  
North Carolina State Board of )  
Elections, PAUL J. FOLEY, in his )  
official capacity as a member of )  
the North Carolina State Board )  
of Elections and MAJA KRICKER, )  
in her official capacity as a )  
member of the North Carolina )  
State Board of Elections, )  
)  
Defendants. )  
)

1 LEAGUE OF WOMEN VOTERS OF NORTH )  
 CAROLINA, A. PHILIP RANDOLPH )  
 2 INSTITUTE, UNIFOUR ONESTOP )  
 COLLABORATIVE, COMMON CAUSE NORTH )  
 3 CAROLINA, GOLDIE WELLS, KAY )  
 BRANDON, OCTAVIA RAINEY, SARA )  
 4 STOHLER, and HUGH STOHLER, )  
 )  
 5 Plaintiffs, )  
 )  
 6 LOUIS M. DUKE, et al., )  
 )  
 7 Plaintiff-Intervenors, )  
 )  
 8 vs. ) Case No: 1:13-CV-660  
 )  
 9 THE STATE OF NORTH CAROLINA, )  
 JOSHUA B. HOWARD in his official )  
 10 capacity as a member of the )  
 State Board of Elections, RHONDA )  
 11 K. AMOROSO in her official )  
 capacity as a member of the State )  
 12 Board of Elections, JOSHUA D. )  
 MALCOLM in his official capacity )  
 13 as a member of the State Board of )  
 Elections, PAUL J. FOLEY in his )  
 14 official capacity as a member of )  
 the State Board of Elections, )  
 15 MAJA KRICKER in her official )  
 capacity as a member of the State )  
 16 Board of Elections, and PATRICK )  
 LLOYD MCCRORY, in his official )  
 17 capacity as the Governor of North )  
 Carolina, )  
 18 )  
 19 Defendants. )  
 )  
 20 )  
 UNITED STATES OF AMERICA, )  
 21 )  
 Plaintiffs, )  
 22 )  
 vs. ) Case No: 1:13-CV-861  
 23 )  
 THE STATE OF NORTH CAROLINA; THE )  
 24 NORTH CAROLINA STATE BOARD OF )  
 ELECTIONS; and KIM W. STRACH, in )  
 25 her official capacity as Executive )  
 Director of the North Carolina )

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State Board of Elections, )  
 )  
Defendants. )

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VIDEOTAPED  
RULE 30(b)(6) DEPOSITION OF  
CAROLINA STATE BOARD OF ELECTIONS  
BY  
KIM WESTBROOK STRACH

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9:02 A.M.  
WEDNESDAY, APRIL 16, 2014

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POYNER SPRUILL  
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RALEIGH, NORTH CAROLINA

By: Denise Myers Byrd, CSR 8340, RPR, CLR 102409-02

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1 THE VIDEOGRAPHER: On record at  
2 9:02 a.m. Today's date is April 16, 2014.

3 This is the videotape deposition of Kim  
4 Strach taken in the matter of North Carolina  
5 State Conference of the NAACP, et al., versus  
6 Patrick Lloyd McCrory, et al., Case Number  
7 1:13-CV-658; and in the matter of League of  
8 Women Voters of North Carolina, et al.,  
9 versus -- and Louis M. Duke, et al., versus The  
10 State of North Carolina, et al., Case Number  
11 1:13-CV-660; and in the United States of  
12 America versus The State of North Carolina,  
13 et al., Case Number 1:13-CV-861.

14 Will the court reporter please swear in  
15 the witness.

16 KIMBERLY STRACH,  
17 having been first duly sworn or affirmed by the  
18 Certified Shorthand Reporter to tell the truth,  
19 the whole truth and nothing but the truth,

20 testified as follows:

21 EXAMINATION

22 BY MS. RIGGS:

23 Q. Good morning. Could you please state your full  
24 name for the record.

25 A. Kimberly Westbrook Strach.

1 Q. Ms. Strach, my name is Allison Riggs. I  
2 represent the League of Women Voters in one of  
3 the consolidated cases in this action.

4 I believe you've had your deposition  
5 taken before; is that correct?

6 A. I have.

7 Q. How many times?

8 A. One, maybe two.

9 Q. Okay.

10 A. So not that many.

11 Q. So I apologize if this is repetitive, so I want  
12 to lay out the ground rules as we go along.

13 For the court reporter's sake, if you  
14 can answer verbally. So rather than shaking  
15 your head yes or no, you can say out loud yes  
16 or no, that would be helpful to her.

17 Also, if you could let me finish my  
18 questions before you start answering, that  
19 helps her transcribe, and likewise I'll wait  
20 for you to finish your answer before I move on.  
21 If you need more time or need to think, just  
22 let me know.

23 If you don't understand a question that  
24 I ask, please let me know; I can rephrase it or  
25 restate it. If you answer the question, I will

1 assume that you understand the question if  
2 that's all right.

3 I'm going to have the court reporter  
4 mark Exhibit 1.

5 (WHEREUPON, Plaintiffs' Exhibit 1 was  
6 marked for identification.)

7 BY MS. RIGGS:

8 Q. Ms. Strach, have you seen this exhibit?

9 A. Yes, I have.

10 Q. This is the deposition notice for today's  
11 deposition. If you could turn to page 10, the  
12 deposition topics.

13 First, let me ask, what did you do to  
14 prepare for this deposition today?

15 A. I have looked at each one of these topics. I  
16 have tried to familiarize myself with all the  
17 information that we have available in our  
18 office that I'm aware of and speaking to anyone  
19 I felt like I needed to, and basically  
20 that's -- I met with our attorneys in  
21 preparation. That's basically what I've done.

22 Q. Aside from your attorneys, who did you speak  
23 with to prepare?

24 A. I guess -- well, based on various of the  
25 topics, I've spoken to -- excuse me -- I've

1 spoken to our budget staff in the office  
2 with -- for various parts. We talked about  
3 funding. I've talked to staff members that  
4 were in the office that had direct  
5 participation in some of these things when they  
6 were going on. And unfortunately, some of the  
7 staff that were also there are no longer there,  
8 so I spoke to the staff that were available to  
9 me.

10 Q. Okay. Did you speak with anyone outside of the  
11 State Board of Elections other than your  
12 attorneys?

13 A. No. No.

14 Q. Who -- which staff members did you speak with  
15 in preparing for this deposition?

16 A. I have spoken with Amy Strange, George McCue,  
17 Veronica DeGraffenreid, Marshall Tutor, Marc  
18 Burris. That is probably -- those were  
19 probably the staff members that I have spoken  
20 with. Don Wright, our general counsel.

21 Q. You said you reviewed materials. Which -- what  
22 materials did you review?

23 A. Well, when it talked about reports or analysts  
24 or analysis, if I were aware if there were  
25 analysis that had been done, I tried to review

1 those in preparation.

2 Q. All right. Ms. Strach, can you tell us a  
3 little bit about your educational background?

4 A. I have a Bachelor of Science degree in criminal  
5 justice from East Carolina University.

6 Q. What year did you graduate?

7 A. 1994.

8 Q. Ms. Strach, are you married?

9 A. I am.

10 Q. To whom are you married?

11 A. Phil Strach.

12 Q. What does Mr. Strach do?

13 A. He is an attorney.

14 Q. Is he involved in this case?

15 A. He is.

16 Q. Can you describe his involvement?

17 A. He is one of the attorneys that has been hired  
18 by the State of North Carolina.

19 Q. Do you know Representative David Lewis?

20 A. I do.

21 Q. Do you know what role he plays at the General  
22 Assembly?

23 A. I know that he is one of the co-chairs of the  
24 Election Law Committee and one of the co-chairs  
25 of the Joint Legislative Oversight Committee.

1 Q. Do you have a social relationship with  
2 Representative Lewis?

3 A. He is a friend of my husband's.

4 Q. Did he participate in your wedding?

5 A. He did.

6 Q. What was his role?

7 A. He was my husband's best man.

8 Q. Okay. Can you describe your work history for  
9 me?

10 A. I -- how far back?

11 Q. Let's start post degree and then pause when we  
12 get to the State Board of Elections and we'll  
13 delve more into that.

14 A. Okay. After I graduated -- oh, wow -- from  
15 college, I was a probation and parole officer  
16 for the State of North Carolina.

17 And after that, I had a short time that  
18 I owned my own business as a performing arts  
19 studio. That was something I did as well while  
20 I was a probation officer, it's something that  
21 I've done since college, and those were the  
22 major two jobs that I've had before.

23 Q. I'm sorry.

24 A. I'm sorry.

25 Q. Can you give -- can you tell me the time ranges

1 approximately for each of those?

2 A. Sure. I was a probation officer probably from  
3 1995 to 19 -- around 1997 and then the studio  
4 from '97 to 2000.

5 Q. And then in 2000 did you join the State Board  
6 of Elections?

7 A. I did.

8 Q. Can you tell me about your first position in  
9 the State Board of Elections?

10 A. I was hired as an elections investigator with  
11 the State Board in March or April 2000.

12 Q. And what does an elections investigator do?  
13 Generally, what does the job position involve?

14 A. Well, generally what I was tasked with doing  
15 was vetting any complaint that was received by  
16 the office, whether it be a campaign finance  
17 allegation or an election violation or  
18 allegation. So there were two investigators.  
19 I was one of those two investigators.

20 Q. And how long did you serve in that role?

21 A. I served in that role for a little over a year.

22 Q. To 2001?

23 A. Yes, ma'am.

24 Q. What was your next role at the State Board of  
25 Elections?

1 A. I was hired as the deputy director of the State  
2 Board of Elections for the campaign finance  
3 division.

4 Q. What did that role entail?

5 A. That role entailed oversight of all political  
6 committees or groups that engage in political  
7 activity in North Carolina, oversight of the  
8 campaign finance functions of the 100 county  
9 boards of election as far as the reporting and  
10 disclosure, and investigating any allegations  
11 of campaign finance violations.

12 Q. Was it in that role that you've been previously  
13 deposed?

14 A. Yes.

15 Q. And I should clarify, the only times you've  
16 been deposed have been in relation to this job?

17 A. Yes. I believe that I was also deposed in a  
18 personnel matter with our office as well.

19 Q. When was that?

20 A. That would have been in -- I believe that it  
21 was -- I'm unsure, but I'm thinking 2010.

22 Q. How long did you serve as deputy director for  
23 campaign finance?

24 A. From 2001 until May of 2013.

25 Q. And then May 2013 you assumed a new role at the

1 State Board?

2 A. Yes, ma'am.

3 Q. What was that?

4 A. Executive director.

5 Q. You currently still serve in that role?

6 A. Yes, ma'am.

7 Q. Tell me a little bit about the structure of the  
8 State Board of Elections.

9 A. The structure of the staff is that we are -- we  
10 have a campaign finance division which has  
11 approximately 18 employees. It's a campaign --  
12 where we have audit staff and education  
13 disclosure staff for educating our treasurers.

14 We also have an administrative section  
15 of our office which is really election support,  
16 and we have an IT section that supports both of  
17 those functions.

18 Q. And do elections investigators fall under any  
19 one of those structures?

20 A. Currently we have restructured the agency, and  
21 so we have one titled elections investigator.  
22 We have compliance specialists in the campaign  
23 finance division.

24 We have now restructured to put those  
25 compliance specialists and election

1 investigator together under one area.

2 Q. You said the agency's been restructured. When  
3 did that happen?

4 A. Well, restructuring as starting in May we began  
5 the process of looking at our resources and  
6 trying to determine how to be more efficient,  
7 and that was part of that efficiency.

8 Q. What else happened as part of that  
9 restructuring besides what you just mentioned  
10 with the compliance specialists and the  
11 election investigator?

12 A. Well, what we -- the deputy director for  
13 campaign finance, which was my former position,  
14 restructured just somewhat to be the  
15 campaign -- the director of campaign finance  
16 and operations, so that's all the financial  
17 aspects of the agency are now with -- held with  
18 that position.

19 Previously that had not been the case,  
20 and so we pulled out all the financial parts of  
21 the agency into that division.

22 We have -- we redefined the other  
23 deputy director position to be a county liaison  
24 that will work directly with the counties  
25 during the election process, and we continue to

1 have the other aspects of the administration  
2 division which are now election support. So we  
3 pulled some of our help desk that were under  
4 the IT section into actual election support.  
5 So that's really how we've restructured.

6 Q. When you say now the deputy director of  
7 campaign finance is the director of campaign  
8 finance and operations, does that involve  
9 financial information about how elections are  
10 conducted?

11 A. Well, it will. I'm not sure I understand what  
12 you mean.

13 Q. So if the State Board of Elections is spending  
14 money on conducting elections either directly  
15 or to the counties, is that now under the  
16 oversight of the director of campaign finance  
17 and operations?

18 A. Yes.

19 Q. And that oversight did not used to be part of  
20 that role; is that right?

21 A. That's correct.

22 Q. So when you were deputy director of campaign  
23 finance, you wouldn't be involved in those  
24 kinds of issues?

25 A. Correct.

1 Q. Prior to your restructuring in May there was  
2 another deputy director position?

3 A. Yes.

4 Q. What was the title then; do you remember?

5 A. It was chief deputy director.

6 Q. Prior to May what duties did the chief deputy  
7 director oversee?

8 A. The chief deputy director had oversight over  
9 the administration section of the agency which  
10 did -- and was primarily responsible for any  
11 budget or fiscal issues and personnel issues of  
12 the agency.

13 Q. So now that position is called still deputy  
14 director or county liaison?

15 A. It's called county liaison.

16 Q. Who serves in that role right now?

17 A. It is currently -- we are just filling that  
18 position, so we have made an offer and that  
19 individual will be starting in June.

20 Q. Has anyone served in that role since you took  
21 office in -- or assumed your responsibilities  
22 in May?

23 A. No.

24 Q. Who was the deputy director -- the chief deputy  
25 director before May?

1 A. Johnny McLean.

2 Q. Who is the director of campaign finances and  
3 operations right now?

4 A. Amy Strange.

5 Q. How many people work for the State Board of  
6 Elections?

7 A. Approximately 49 currently.

8 Q. And what is your relation to the county boards  
9 of election in this state?

10 A. We have oversight over the -- the general  
11 oversight over the administration of elections.  
12 And more specifically with campaign finance, we  
13 handle all campaign finance issues for -- other  
14 than the general oversight that committees  
15 reports that file are filed with the county  
16 boards, we deal with all other aspects of  
17 campaign finance.

18 Q. How are those 49 staffers divided amongst the  
19 different sections of the agency that you  
20 mentioned?

21 A. Okay.

22 Q. Approximately.

23 A. There are approximately 18 positions in the  
24 campaign finance and operations division.

25 There are probably about that many in the IT

1 section, and now that we have restructured the  
2 election support, that's going to be the  
3 remainder of the staff with the -- excuse me,  
4 with the -- I apologize.

5 There are -- there are -- as far as  
6 elections and the investigative, there is one  
7 election investigator. We have two compliance  
8 positions. So those three positions are also  
9 in a section.

10 And we have the voter outreach team  
11 which are not all on staff yet. We have two  
12 positions that have been filled there.

13 Q. How many positions will there eventually be in  
14 voter outreach?

15 A. Seven.

16 Q. When did you anticipate those positions all  
17 being filled?

18 A. As soon as possible. We're -- we have  
19 interviewed for all seven positions and are in  
20 the process of trying to get approvals to hire.

21 Q. These voter outreach positions, what section of  
22 the agency do they fall in?

23 A. They will be a separate section, but they will  
24 work in conjunction with the election support  
25 team.

1 Q. So then would it be accurate to describe the  
2 agency of comprising four main sections, the  
3 voter outreach, administrative election  
4 support, IT and campaign finance?

5 A. And the elections -- and the investigation  
6 division.

7 Q. Who -- what members of the staff do you work  
8 most closely with?

9 A. I work closely with many members of our staff  
10 on a daily basis. That will would be sort of  
11 difficult to answer. I'm involved in many of  
12 what goes on a daily basis. So I generally  
13 have contact with many of the -- many of the  
14 staff.

15 Q. Do you work with Don Wright on a daily basis?

16 A. I do work with Don Wright on a daily basis.

17 Q. What is his role?

18 A. He is general counsel.

19 Q. What kind of interactions do you have with  
20 Mr. Wright on a daily basis?

21 A. I interact -- Don handles a lot of inquiries  
22 that come from the counties. So he will brief  
23 me numerous times a day on issues that may be  
24 arising in a particular county, and so that's a  
25 substantial part of our contact is with those

1 duties that he has.

2 Q. How long has Mr. Wright been at the State Board  
3 of Elections?

4 A. Mr. Wright came to the agency right after I  
5 came to the agency, so I would say either in  
6 late 2000 or early 2001.

7 Q. Do you work with Veronica DeGraffenreid on a  
8 daily basis?

9 A. I do.

10 Q. What is her job title?

11 A. Veronica DeGraffenreid's position has just been  
12 reclassified. She is now the elections support  
13 manager so she manages that team.

14 Q. What was her job title before that?

15 A. She was called an elections liaison.

16 Q. What does -- what does an elections liaison do?

17 A. Well, I think that she basically did a lot of  
18 different things that -- she was whatever was  
19 tasked by her supervisor Johnny McLean and Gary  
20 Bartlett, the former executive director.

21 Q. What are some of the issues or topics that you  
22 might interact with Veronica DeGraffenreid on a  
23 daily basis?

24 A. Preparation for elections, work that we are --  
25 our counties are doing preparing for one-stop

1 voting, whatever we may be in preparation for,  
2 reports that we may be running to ensure our  
3 list maintenance responsibilities.

4 Veronica is primarily responsible for  
5 those activities. So we -- anything that is  
6 election related I will interact with Veronica  
7 on.

8 Q. Will she report to the county liaison when that  
9 job is filled?

10 A. No. She will continue to report to me.

11 Q. How long has Ms. DeGraffenreid been at the  
12 State Board of Elections?

13 A. I believe that Veronica came to the agency 2008  
14 or '09.

15 Q. Do you interact with Marc Burriss on a daily  
16 basis?

17 A. I do.

18 Q. What is Marc Burriss's role?

19 A. He is our IT director.

20 Q. So he's the head of that section?

21 A. He is.

22 Q. Do you interact with Marshall Tutor on a daily  
23 basis?

24 A. I do. I do.

25 Q. What is Marshall Tutor's role?

1 A. He is the elections investigator for the  
2 agency.

3 Q. How long has Mr. Tutor been at the State Board  
4 of Elections?

5 A. Mr. Tutor has been there approximately ten  
6 years. That's approximate.

7 Q. Okay. I'm sorry, I forgot to ask you how long  
8 Marc Burriss has been with the State Board of  
9 Elections.

10 A. Mr. Burriss was there before I came to the  
11 agency. I think he's probably been there  
12 15 years.

13 Q. Do -- Mr. Tutor reports directly to you?

14 A. He does.

15 Q. Are there any other people that you can just  
16 rattle off some names of people you say you  
17 work with on a daily basis?

18 A. Amy Strange as the director of campaign finance  
19 and operations; George McCue. Those are people  
20 that I would say I have more daily contact  
21 with. Sheryl Harris.

22 I honestly do have a lot of contact  
23 with many of the other staff people so that's a  
24 really difficult question for me to be  
25 definitive about.

1 Q. What is George McCue's role?

2 A. George McCue works in the election support  
3 section. He's also one of our rules  
4 coordinators. He has several roles.

5 Primarily now he works a lot with the  
6 one-stop implementation plan, he deals with our  
7 counties on that, any rule making that we're  
8 engaged in. Mr. McCue works with Don Wright.  
9 Together they've been working on those issues  
10 and other projects that may be assigned.

11 Q. How long has Mr. McCue been with the State  
12 Board of Elections?

13 A. I believe that Mr. McCue came in 2011.

14 Q. What is Sheryl Harris's role?

15 A. She is a compliance specialist.

16 Q. That would be under the campaign finance  
17 division?

18 A. Yes, ma'am.

19 Q. Do you know what I mean when I use the term  
20 "numbered memos"?

21 A. Yes, I do.

22 Q. Can you describe what numbered memos are for  
23 me?

24 A. Right. Numbered memos are the guidance that  
25 has been provided to our counties from --

1 generally it's from the executive director on  
2 how we -- information and guidance on  
3 implementing various things are agency is  
4 tasked with implementing.

5 Q. When you say generally from the executive  
6 director, sometimes is it not from the  
7 executive director?

8 A. I say that. It's always been the executive  
9 directors, and I believe that it always has  
10 been, but I'm not -- I can't be a hundred  
11 percent sure in years past. Johnny McLean may  
12 have put out a numbered memo. I'm not sure.

13 Q. Does the person who puts it out sign it?

14 A. Generally they're not -- they're not -- they're  
15 e-mailed and so they are -- they're drafted and  
16 usually they're not signed.

17 Q. What is your understanding of the force and  
18 effect of those numbered memos?

19 A. Well, we believe that that's guidance  
20 that -- we provide counties that guidance. We  
21 expect them to adhere to that.

22 Q. Do you offer interpretations of law in these  
23 memos?

24 A. Generally what we do is we provide our -- how  
25 we believe that we are administering based on

1 the law, so I'm not sure that I would  
2 characterize it as an interpretation, but it is  
3 guidance on how we will be administering based  
4 on the law.

5 Q. What's the process for deciding to issue a  
6 numbered memo?

7 A. I wouldn't say there's necessarily a formal  
8 process. If we believe that there is an issue  
9 that we think that counties need to take -- to  
10 take notice of, we usually will put that in a  
11 numbered memo.

12 Sometimes we will just give general  
13 guidance, but if it's something that we believe  
14 we want our counties to take particular notice  
15 of, we will put that in a numbed memo. There's  
16 not a particular process.

17 Q. Is there a -- how do you decide whether or not  
18 to just send an e-mail to county boards versus  
19 issue a numbered memo?

20 A. Once again, it's just a process that I think  
21 when we -- depending on what the issue is,  
22 talking with staff whether or not we believe  
23 this is an issue that we need to provide what  
24 we -- our numbered memo is our formal guidance.

25 Q. Do you know how many numbered memos the State

1 Board of Elections has issued in the last  
2 15 years?

3 A. I do not know the specific number. I know that  
4 it is an awful lot.

5 Q. About how many a year?

6 A. I'm not sure. I'm sorry, I probably shouldn't  
7 say because I'm not sure.

8 Q. Okay. Who's involved with drafting a numbered  
9 memo?

10 A. It depends. It depends entirely on the content  
11 of the memo. It depends what it's going to be  
12 about. There are various people that could be  
13 involved in the drafting of a numbered memo.  
14 There's not one particular person that's their  
15 task. It is all subject to matter dependent.

16 Q. When -- in your prior role as deputy director  
17 for campaign finance, were you involved with  
18 every numbered memo that was produced by the  
19 State Board of Elections?

20 A. No.

21 Q. Were you primarily involved in campaign finance  
22 numbered memos?

23 A. Primarily, yes.

24 Q. Were there other numbered memos that you were  
25 involved with?

1 A. In my previous role?

2 Q. Yes.

3 A. Advisory opinions which are campaign finance  
4 specific.

5 Q. Is there an equivalent to an advisory opinion  
6 in the elections -- election support section?

7 A. No. The numbered memos is probably the  
8 equivalent.

9 Q. In your former role were you involved in the  
10 production of any numbered memos in relation to  
11 election support issues or questions?

12 A. I might have been early on, but generally I  
13 would not have been involved in those.

14 Q. Does the State Board of Elections issue other  
15 reports or analyses besides the numbered memos?

16 A. The staff of the State Board of Elections?

17 Q. Under the name of the State Board of Elections  
18 or the -- well, let's start with that.

19 A. The staff of the State Board of Elections has  
20 released summaries or analysis on various  
21 things. There is no particular process. I  
22 guess it's usually on a request either by the  
23 State Board or some other request that has been  
24 made. Usually that's I think how those  
25 analysis and summaries are done.

1 Q. Do you produce reports or analyses at the  
2 behest of members of the General Assembly?

3 A. If requested, I believe so.

4 Q. Do you produce reports or analyses when  
5 requested by members of other state agencies?

6 A. Give an example.

7 Q. If someone from the Governor's office asked you  
8 to do a report or an analyses, would the State  
9 Board of Elections do that?

10 A. If we had the information that was pertinent to  
11 that report, we would provide what information  
12 we were asked to provide.

13 MS. RIGGS: I'm going to have the  
14 court reporter mark Exhibit 2.

15 (WHEREUPON, Plaintiffs' Exhibit 2 was  
16 marked for identification.)

17 BY MS. RIGGS:

18 Q. Ms. Strach, are you familiar with Exhibit 2?

19 A. I am not.

20 Q. You've never seen this exhibit before?

21 A. I do not believe I have seen this before.

22 Q. Do you have any reason to believe this is not a  
23 report issued by the North Carolina State Board  
24 of Elections?

25 A. I have no reason to believe that it's not.

1 Q. So I'm assuming, then, you don't know why this  
2 was produced.

3 A. I do not.

4 Q. Do you know who at the State Board of Elections  
5 might know more about this report?

6 A. That is -- I'm not sure. I would assume that  
7 the key people that would have put this  
8 together would have probably been Gary Bartlett  
9 and Johnny McLean.

10 Q. Because it has information that would have --  
11 that they would have been directly involved  
12 in --

13 A. Yes.

14 Q. -- at the time?

15 And the time is March 2011?

16 A. Yes.

17 MS. RIGGS: I'm go to have the  
18 court reporter mark what is Exhibit 3.

19 (WHEREUPON, Plaintiffs' Exhibit 3 was  
20 marked for identification.)

21 BY MS. RIGGS:

22 Q. Ms. Strach, have you seen this exhibit before?

23 A. I have seen this before, yes.

24 Q. Why was this report produced?

25 A. I have seen this, and I am not -- I need to

1 review it more to be able to -- to tell you why

2 I know I've seen this before.

3 Q. Sure. Take your time.

4 A. I believe I had a role in this report.

5 Q. So this is a report produced by the State Board  
6 of Elections?

7 A. Yes.

8 Q. This would be one of the non-numbered memo  
9 reports that we discussed earlier?

10 A. Correct.

11 Q. Is it common practice for the State Board of  
12 Elections to produce this kind of report for  
13 every election?

14 A. No, I don't think so.

15 Q. Why was it produced for 2004?

16 A. And I'm not sure. I am not sure why it was  
17 produced for 2004, but I do -- I do recall --  
18 in 2004, I recall being involved in some of the  
19 election administration issues just because we  
20 were short -- we were short -- had a short  
21 number of staff members and I had some  
22 involvement with assisting where I could.

23 So that's probably why I have some  
24 knowledge of this particular report is because  
25 I probably was assisting in some way with the

1 elections process in 2004.

2 Q. If you don't know why it was -- why it was  
3 produced, do you know who would know why it was  
4 produced?

5 A. Gary Bartlett would have been the one that  
6 would have requested a document like this.

7 Q. Would he have told you why he was requesting  
8 the document at the time?

9 A. If he had made the request of me, yes, I  
10 believe that he probably would have.

11 Q. So you may have been supporting another staffer  
12 working on this?

13 A. Absolutely possible.

14 Q. Do you have any idea what other staffers might  
15 have been working on this?

16 A. In 2004, it would have been a very limited  
17 number of people. Probably Gary Bartlett,  
18 Johnny McLean, possibly Don Wright.

19 Q. Okay. To your knowledge, does this kind of  
20 report exist for any other elections?

21 A. I'm not aware if there have been. It would not  
22 have been -- 2004 I specifically remember  
23 because I was asked to help with actually going  
24 to a county, I believe, in 2004 and assisting  
25 with an election, so -- but generally after

1           that I had -- I had less involvement and  
2           generally more involvement with just campaign  
3           finance. We received additional staff members  
4           shortly after that.

5       Q. Do you remember which county you went to in  
6       2004?

7       A. I remember going to Onslow County.

8       Q. Was that the only county?

9       A. Probably not. Probably not. I did some  
10       traveling to some counties in 2004 for various  
11       reasons.

12      Q. You don't remember the other counties?

13      A. I -- it could have been Robeson County, but I'm  
14       not sure if it was 2004, but I might have been  
15       in Robeson County as well.

16      Q. What other elections did you travel to counties  
17       in association with?

18      A. Early on, from 2000, I was -- the first part of  
19       my time with the State Board of Elections I  
20       spent in Harnett County. I worked -- let's  
21       see. During -- between the time that I was an  
22       elections investigator, I traveled to most of  
23       the counties in this state.

24      Q. When did that traveling to counties end?

25      A. After 2004, and I'm not sure -- we were able to

1 get additional staff a couple years after that,  
2 and so the need to take employees that were  
3 working in the campaign finance division, it  
4 was not as necessary to do that after that  
5 point, so I would say it was sometime right  
6 after the 2004 election.

7 Q. Were you employed at the State Board of  
8 Elections when no-excuse in-person absentee  
9 voting began?

10 A. Yes.

11 Q. Were you involved in the implementation of that  
12 law that allowed that?

13 A. I was involved to the extent that my job was to  
14 travel to the counties that were implementing  
15 it and to ensure that -- providing support and  
16 just initial sort of oversight. That was sort  
17 of my job is I went to many of the counties in  
18 the western part of the state as they were  
19 beginning to implement no-excuse one-stop  
20 voting for the first time.

21 Q. Let me take a step back and have you define and  
22 explain one-stop voting just for the record.

23 A. Well, one-stop voting is -- when I started at  
24 the agency, that's what you called it. You  
25 didn't call it early voting. One-stop voting

1 was where you would go -- it was absentee  
2 voting. It's done in person where you fill out  
3 an application and vote in person.

4 Q. And when you started at the State Board of  
5 Elections, was an excuse required in order to  
6 participate in one-stop voting?

7 A. Initially, yes, it was due to sickness or being  
8 away, and then shortly after I started with the  
9 agency, no-excuse one-stop voting became the  
10 law.

11 Q. Can you describe for me -- during your initial  
12 roles at the State Board of Elections you said  
13 you had some oversight of the counties as they  
14 implemented no-excuse one-stop voting. Can you  
15 describe what those interactions were like?

16 A. Oversight maybe a little strong word. I  
17 visited the counties and generally during those  
18 time periods to just make sure everything was  
19 going as routinely as it should be going, and I  
20 reported -- and I reported back. That's my  
21 recollection of my involvement in that was just  
22 visiting those counties. I had -- I primarily  
23 think my counties were in the western part of  
24 the state.

25 Q. What -- who did you report back to?

1 A. Probably Gary Bartlett.

2 Q. How -- what kind of comments or concerns were  
3 you getting from the county boards that you  
4 dealt with or the counties that you dealt with,  
5 I'm sorry, during this period?

6 A. I don't recall any. I don't recall any  
7 concerns or comments during that.

8 It was general -- generally I was there  
9 just to go -- and that was some years ago so  
10 I'm sure that there were conversations, but I  
11 have no recollection of any particular concern  
12 that was expressed during that time.

13 Q. Were you part of the group at the State Board  
14 of Elections who oversaw statewide the  
15 implementation of no-excuse one-stop voting?

16 A. I think that's generally what we were doing.  
17 What we were doing, we were sent out in the  
18 effort to -- to see what statewide was being  
19 done in the implementation of the program.

20 Q. Who else would have been sent out at that  
21 point?

22 A. It was -- as I recall, it was me and the other  
23 elections investigator probably was sent out as  
24 well. I can't say for sure. His name is Gary  
25 Simms.

1 Q. Is Mr. Simms still at the State Board?

2 A. No, he is not.

3 Q. Where is he?

4 A. He is the deputy director of the Wake County  
5 Board of Elections. I believe that the two of  
6 us were probably the only two people that were  
7 sent out. We were probably about a 12-person  
8 staff at that time. Mr. Bartlett himself might  
9 have done some of that.

10 Q. Would you have been involved in the development  
11 of numbered memos on no-excuse absentee voting,  
12 one-stop voting at that time?

13 A. It's possible. If asked to provide  
14 information, I certainly would have. I don't  
15 have a specific memory of specific memos that I  
16 was involved in, but it's certainly possible at  
17 that time that I could have.

18 Q. What was your impression of the counties'  
19 response statewide, but we can go deeper on  
20 that, the counties' response to no-excuse  
21 one-stop voting?

22 A. As I said, I don't have a specific memory of  
23 any particular response, so I certainly don't  
24 have a negative impression. I mean, I don't  
25 have any, really, impression of it. I don't

1 recall any specific concern expressed by a  
2 county at that time.

3 Q. Did the State Board of Elections view the  
4 allowance of this in the law as a good thing?

5 MR. PETERS: Objection just to the form  
6 of the question and what exactly is meant by  
7 the State Board of Elections.

8 BY MS. RIGGS:

9 Q. The State Board of Elections executive director  
10 and staff, did they express any opinions about  
11 whether or not they thought the implementation  
12 of no-excuse absentee voting was good or bad  
13 for the state?

14 A. I don't recall any conversations discussing  
15 that.

16 Q. Do you recall any conversations discussing  
17 voter response to no-excuse absentee voting?

18 A. Those conversations, no, not with me, no.

19 Q. But they may have happened?

20 A. Oh, they may have, absolutely, but not with me.

21 Q. Were you still working as -- in this same role  
22 of visiting counties when changes to citing  
23 authority for early voting sites happened?

24 A. I don't believe so, but it's possible.

25 Q. Do you recall interacting with Gary Bartlett or

1 any of the other staff at the State Board of  
2 Elections on developing any numbered memos  
3 relating to the establishment or the citing  
4 authority of the county boards for satellite or  
5 one-stop sites?

6 A. I do not have any specific recollection of  
7 working on any memos, but I certainly was part  
8 of the agency at that time and it's possible  
9 that I could have had some role in that.

10 MS. RIGGS: I am going to have the  
11 court reporter mark Exhibit 4 and hand it to  
12 you.

13 (WHEREUPON, Plaintiffs' Exhibit 4 was  
14 marked for identification.)

15 BY MS. RIGGS:

16 Q. Ms. Strach, is this a list of the one-stop  
17 sites and times for the general election in  
18 2004?

19 A. It appears to be.

20 Q. Can you skim through it. Well, first, have you  
21 seen this list before?

22 A. I don't recall seeing this list before, but I  
23 certainly could have seen this list before.

24 Q. Who would compile such a list?

25 A. I do not believe there was anybody specifically

1 at that time that was tasked with that. It  
2 could have been -- it could have been basically  
3 anybody on staff at that time could have put  
4 this together.

5 Q. In 2004, do you remember approximately the size  
6 of the staff at the State Board of Elections?

7 A. This is just an approximation. I would say no  
8 more than 20 -- 20, 25 maybe at the most. The  
9 majority of the people were probably in the IT  
10 section.

11 MS. RIGGS: Okay. I'm going to have  
12 the court reporter mark this as Exhibit 5.

13 (WHEREUPON, Plaintiffs' Exhibit 5 was  
14 marked for identification.)

15 BY MS. RIGGS:

16 Q. Ms. Strach, have you seen this exhibit before?

17 A. No, I'm pretty sure I have not seen this.

18 Q. What is this exhibit?

19 A. It appears to be the one-stop voting sites for  
20 the November 4th of 2008 general election.

21 Q. Do you know in 2008 who would have been  
22 responsible for compiling this list?

23 A. Johnny McLean would have directed someone to  
24 compile this.

25 Q. Do you know who else might have been working on

1 compiling this list?

2 A. If Veronica DeGraffenreid was at the agency at  
3 the time, and I'm not sure that she was, that  
4 is something probably she would have.

5 There were various staff members that  
6 probably assisted with one-stop implementation  
7 plans. I do not know specifically who those  
8 staff members were. I do not believe any of  
9 those are still at our agency.

10 Q. Would Veronica DeGraffenreid been involved with  
11 the one-stop plan?

12 A. If she was at the agency at that time. She may  
13 have been, but she came on either I believe in  
14 '8 or '9, so I'm not sure of the extent of  
15 her involvement at that time.

16 MS. RIGGS: I'm going to have the  
17 court reporter mark this as Exhibit 6.

18 (WHEREUPON, Plaintiffs' Exhibit 6 was  
19 marked for identification.)

20 BY MS. RIGGS:

21 Q. Ms. Strach, have you seen this exhibit before?

22 A. I have -- yes, I have seen at least something  
23 very similar to this exhibit. I believe it is  
24 the same, yes.

25 Q. What is this exhibit?

1 A. This is one-stop voting sites for the May 2010  
2 primary election.

3 Q. Who -- in 2010 who would have been responsible  
4 for compiling this list?

5 A. Actually we don't know who compiled this list  
6 in 2010. We've had discussions about it  
7 because George McCue has worked very hard on  
8 trying to update this. So I'm not sure exactly  
9 who the staff member was that originally  
10 compiled this.

11 Q. What do you mean by "update this"?

12 A. Well, in -- in the fact that we have to this  
13 year match the hours, we wanted to ensure that  
14 the information we had was accurate and  
15 complete, and since we did not know who  
16 compiled this, he had pulled this information  
17 as -- at least a beginning point of where we  
18 would determine what the hours match would be.

19 Q. Do you know if he made changes to the list of  
20 one-stop voting sites for May 2010 that he  
21 started with?

22 A. He would have if the county -- if in connection  
23 with either what's included in our SEIMS  
24 system, our statewide information management  
25 system, or information that would have been

1 provided by the county boards of election, he  
2 would have made changes based on those -- those  
3 would be the only way he would make changes.

4 Q. Was SEIMS fully implemented in May 2010?

5 A. Yes.

6 Q. So do you know for a fact whether or not he  
7 made any changes? I understand what he would  
8 have made them on the basis of.

9 A. I think -- as I recall, I believe he only had  
10 to make one change with one particular county  
11 that disputed the hours that we said we had on  
12 file.

13 Q. Which county was that?

14 A. And I am not sure which county it is.

15 Q. Would Mr. McCue know?

16 A. He would, and I have known.

17 Q. I'm sorry?

18 A. I have known but I just couldn't tell you right  
19 now.

20 Q. How would the county go about disputing the  
21 early voting hours you had on file?

22 A. If they had documentation to show hours that  
23 were -- that were different from the hours that  
24 we were showing.

25 Generally the hours that -- in 2010 --

1 and Marc Burris can probably speak better to  
2 this than I can, but in two thousand -- we  
3 improved our information of how the information  
4 that they could put into SEIMS for tracking  
5 purposes.

6 I do not think we had the abilities in  
7 2010 to track the kind of data that we did in  
8 2012, so I think that was -- Mr. McCue was  
9 taking the information we had from SEIMS, and I  
10 don't think it was as complete as the  
11 information in 2012, working with the counties  
12 to ensure that we had the most accurate  
13 information.

14 Q. Would you have been working with the counties  
15 in 2010 as part of the one-stop  
16 implementation --

17 A. No.

18 Q. -- for this election?

19 A. No.

20 Q. What -- does this kind of document exist for  
21 primary elections prior to 2010?

22 A. I am not aware if they are. I don't believe  
23 that -- I certainly do not believe that they  
24 exist in the format that this one is.

25 There could be -- someone could have

1           created them for or at the direction of  
2           somebody in the office, but I don't think that  
3           we have, that I'm aware of, other lists like  
4           this.

5       Q.   What was the purpose of compiling lists in this  
6           format?

7       A.   I'm not sure specifically why it was put in  
8           this particular format. I didn't direct it to  
9           be in that format, so I'm not sure why it was  
10          in this particular format.

11      Q.   Was this list published to the public?

12      A.   I'm sure it was on our website. I'm sure that  
13          at least a similar list would have been on our  
14          website.

15      Q.   When did the website for the State Board of  
16          Elections start publishing one-stop sites and  
17          times?

18      A.   I'm not sure when they -- when they started  
19          doing that. I'm not sure.

20      Q.   Do you know who would know at the State Board?

21      A.   It's possible Marc Burris may know. He may not  
22          know as far as what information was put on the  
23          public pages, and I'm not sure there's  
24          anyone -- Gary Bartlett and Johnny McLean would  
25          probably know that information.

1 Q. What is the purpose of publishing on the  
2 website a list of one-stop sites and times?

3 A. Providing the public information of where they  
4 can vote.

5 Q. What other ways does the State Board of  
6 Elections do that?

7 A. We have an actual voter look-up module on our  
8 website, an application for a voter to put in  
9 their name so they can see exactly where at  
10 least their polling place on election day would  
11 be.

12 We have links to all 100 county boards  
13 of election which would have the information on  
14 one-stop voting in their particular county as  
15 well.

16 Q. Do you have any methods of conveying that  
17 information -- aside from the website,  
18 information about one-stop sites and times?

19 A. The website is primarily how we do that.  
20 Counties provide notice as well through various  
21 ways that they do that, through their own  
22 websites and other means.

23 Q. Is that overseen or directed by the State Board  
24 of Elections when the county boards do that?

25 A. No. They have the options to provide it as

1 many ways that they can.

2 Q. So you said the website was primarily the way  
3 the State Board of Elections conveyed this  
4 information. Is there any other way that the  
5 State Board of Elections conveys the  
6 information?

7 A. Conveys the information specifically on --

8 Q. One-stop sites and times.

9 A. That would be the primary way that we do unless  
10 a request is made for that information. We  
11 could provide it to anyone who requested it,  
12 but generally that's how we disseminate the  
13 information to the public.

14 Q. Would a request be to an individual -- I mean  
15 an individual calling to ask about a voting  
16 site?

17 A. Sure, could be.

18 Q. Are there any other examples besides the  
19 website or responding to individual requests in  
20 which the State Board of Elections conveys  
21 information about one-stop sites and times?

22 A. One-stop sites and times, if we're talking  
23 specifically on that, the website is  
24 primarily it. And the reason is those changes  
25 are happening. We just have -- still in the

1 process of finalizing those one-stop places and  
2 times. So as soon as we get that information,  
3 we put that out the best way possible.

4 We have sent out a voter guide to every  
5 household in the state. We couldn't include  
6 that information in the voter guide because it  
7 just wasn't available at the time of printing.

8 Q. I'm going to get back to that in a second.

9 MS. RIGGS: Let me have the court  
10 reporter mark Exhibit 7.

11 (WHEREUPON, Plaintiffs' Exhibit 7 was  
12 marked for identification.)

13 BY MS. RIGGS:

14 Q. Ms. Strach, have you seen this exhibit?

15 A. Yes, I believe I have.

16 Q. What is this?

17 A. This is one-stop voting sites for the  
18 November 2002 -- November 2nd, 2010, general  
19 election.

20 Q. And this is similar to the last few exhibits  
21 that we just looked at?

22 A. Yes, ma'am.

23 Q. It has all of the counties, early voting sites  
24 and times and locations?

25 A. Yes.

1 Q. Would this have been published on the  
2 website -- I'm sorry -- the State Board  
3 website?

4 A. It could have been. I'm not -- I don't have  
5 specific knowledge of whether or not this  
6 particular document was on the website at that  
7 time.

8 MS. RIGGS: This is Exhibit 8. Could  
9 you please mark that.

10 (WHEREUPON, Plaintiffs' Exhibit 8 was  
11 marked for identification.)

12 BY MS. RIGGS:

13 Q. Ms. Strach, have you seen this document?

14 A. I have seen a document that has this  
15 information on it. I can't say that it's this  
16 precise document.

17 Q. What information is that?

18 A. This is one-stop voting site list for the  
19 May 2012 primary.

20 Q. In what context have you seen this document?

21 A. I've seen that in reviewing the data that we  
22 have in order to provide information to our  
23 counties for elections that will be going  
24 forward based on our obligation to ensure that  
25 they match their number of hours in these

1 elections.

2 Q. So the May 2012 primary is one that you had to  
3 look at for that purpose?

4 A. We have so that we can look at that for that  
5 purpose in 2016.

6 MS. RIGGS: Would you please mark this  
7 as Exhibit 9 and hand it to Ms. Strach.

8 (WHEREUPON, Plaintiffs' Exhibit 9 was  
9 marked for identification.)

10 BY MS. RIGGS:

11 Q. Ms. Strach, have you seen this exhibit?

12 A. Yes, I have.

13 Q. What is this?

14 A. This is the one-stop voting sites for the  
15 November 6, 2012, general election.

16 Q. Have you -- in what context have you reviewed  
17 this document before?

18 A. In the same context as the primary for 2012 in  
19 ensuring that we had the data to be able to  
20 provide the counties information on the hours  
21 match they'll need for the 2016 general  
22 election.

23 MS. RIGGS: This is Exhibit 10.

24 (WHEREUPON, Plaintiffs' Exhibit 10 was  
25 marked for identification.)

1 BY MS. RIGGS:

2 Q. Ms. Strach, have you seen this exhibit?

3 A. Yes, I have.

4 Q. What is this exhibit?

5 A. This is the one-stop voting sites for the  
6 May 6, 2014, election.

7 Q. Ms. Strach, if I represent to you that I  
8 printed this off the website last night, is  
9 this a complete list?

10 A. I believe that it is.

11 Q. When were one-stop sites and times finalized  
12 for the upcoming primary?

13 A. The last county that I approved was Lenoir  
14 County, and that approval was done either  
15 Friday or Monday, I believe.

16 Q. Can you explain to me the standard process for  
17 approving one-stop plans for counties. Now,  
18 let's start with for this current election and  
19 then I might ask you about prior processes.

20 A. The process is that the counties, in order to  
21 have a plan approved by our staff, our office,  
22 is the plan has to be unanimous from the  
23 three-member county boards. They have to  
24 provide a plan to us that sets forth the sites,  
25 the hours that they will be open at the sites,

1           whether or not the sites are accessible for  
2           accessibility purposes.

3                       And once we get that implementation  
4           plan, it is reviewed by staff to ensure that  
5           they have adhered to all of the things that the  
6           plan must adhere to, and if that plan is  
7           unanimous and it does meet those  
8           specifications, then it will be approved.

9           Q.   What happens if it doesn't meet the  
10           specifications?

11           A.   Then it will be sent back to the county board  
12           for them to address whatever deficiencies may  
13           be there.

14           Q.   Is that something that staff takes care of  
15           directly or do the members of the State Board  
16           of Election weigh in on whether there are  
17           deficiencies in a unanimous plan?

18           A.   Generally, the State Board does not weigh in  
19           unless we cannot resolve the deficiency.  The  
20           deficiency might be sometime that the polling  
21           place -- they say that the polling place is not  
22           accessible, so we say, okay, we're not going to  
23           approve that plan, or they have submitted a  
24           plan and it doesn't have the correct hours on  
25           it.  So we send it back and say you need to

1 provide the correct hours. If they cannot do  
2 that, that would be something that would then  
3 make it to the State Board.

4 Q. What was the deadline for submitting one-stop  
5 implementation plans for the May primary?

6 A. It was -- we had -- I'm not sure of the  
7 specific deadline. It was in March, late March  
8 we had a deadline, we set a deadline, and then  
9 there were some cases where county boards  
10 couldn't meet by that deadline. We had some  
11 weather issues across the state that delayed  
12 some of that. So that deadline was pushed out  
13 some for some counties that could meet that.

14 Q. What happens when a county board of elections  
15 has a non-unanimous one-stop plan?

16 A. If it's a non-unanimous plan, the State Board  
17 will hear -- will hear that plan and determine  
18 the plan for that particular county.

19 Q. Were there other one-stop plans besides  
20 non-unanimous plans that the State Board  
21 considered?

22 A. As far as the plans for the sites?

23 Q. Well, I would generally describe it as the  
24 one-stop implementation plans which would  
25 include sites.

1 A. Right. There were two processes. There was  
2 the implementation plan that included the  
3 sites. There was also requests that could be  
4 made by counties that were requesting a  
5 reduction in hours. Those were -- those were  
6 also plans that would have been heard by the  
7 State Board.

8 Q. Okay. I am going to get back to that, but in  
9 the meantime, I want to hand you Exhibit 11.

10 (WHEREUPON, Plaintiffs' Exhibit 11 was  
11 marked for identification.)

12 BY MS. RIGGS:

13 Q. Ms. Strach, have you seen Exhibit 11 before?

14 A. If I have, I don't recall.

15 Q. Does this appear to you to be a report from the  
16 State Board of Elections?

17 A. It does.

18 Q. And the subject matter is election day lines?

19 A. Yes, it is.

20 Q. Would this have been written before your time  
21 at the State Board of Elections?

22 A. It would have.

23 Q. Skimming the first paragraph or two, does it  
24 appear to be discussing long lines in the 1996  
25 general election?

1                   MR. FARR:  Objection; the document  
2                   speaks for itself.

3                   BY MS. RIGGS:

4                   Q.  Do you know who would have been involved in  
5                   working on this report?

6                   A.  I do not.

7                   Q.  Do you know is there -- who would know?

8                   A.  Gary Bartlett likely.

9                   Q.  Okay.  I suppose before I move on, this is not  
10                  a numbered memo to your knowledge?

11                  A.  It does not have the format of our numbered  
12                  memos.

13                  MS. RIGGS:  This is Exhibit 12.

14                  (WHEREUPON, Plaintiffs' Exhibit 12 was  
15                  marked for identification.)

16                  BY MS. RIGGS:

17                  Q.  Can you skim through Exhibit 12.

18                  A.  (Witness complying.)

19                  Q.  Have you seen this exhibit before?

20                  A.  I have not.

21                  Q.  Is this -- is this exhibit what we've been  
22                  referring to as a numbered memo?

23                  A.  Yes.

24                  Q.  And what's attached to it are State Board of  
25                  Elections official minutes?

1 A. Yes.

2 Q. The numbered memo 2008-25, were you involved in  
3 the development of this numbered memo?

4 A. No, I was not.

5 Q. Who would have been involved?

6 A. Gary Bartlett would have been involved. I'm  
7 not sure what others would have been. Johnny  
8 McLean possibly.

9 Q. Would Veronica DeGraffenreid possibly been  
10 involved?

11 A. I am not sure if she was. If she was at the  
12 agency, she may have been. I'm not sure.

13 Q. Do you remember talking with anyone at the  
14 State Board of Elections around this time about  
15 the extremely heavy voter turnout and long  
16 lines at one-stop absentee voting sites?

17 A. No.

18 Q. Besides Gary Bartlett and Johnny McLean, is  
19 there anyone else who would have been aware of  
20 such discussions?

21 A. I'm not sure. Those would be the two primary  
22 people that would have -- I would believe would  
23 have been involved in any discussion about  
24 that.

25 Q. What kind of -- would there have been any IT

1 involvement in the development of this numbered  
2 memo?

3 A. I don't see any data involved, really, with it  
4 so I'm not sure they would have had a role.

5 Q. So these types of numbered memos are not the  
6 kind of material that you reviewed in  
7 preparation for this deposition?

8 A. Some. Some. This was one that -- I've not  
9 seen this one. I did not -- I'm sorry. I'm  
10 sorry.

11 Q. No. Go ahead.

12 A. I did not review all the numbered memos of the  
13 agency.

14 Q. So you have no knowledge about voter turnout  
15 conditions in the November 2008 general  
16 elections?

17 A. No, I do not.

18 MS. RIGGS: This is Exhibit 13.

19 (WHEREUPON, Plaintiffs' Exhibit 13 was  
20 marked for identification.)

21 BY MS. RIGGS:

22 Q. Ms. Strach, have you seen this exhibit before?

23 A. I do not believe I've seen this specific  
24 numbered memo.

25 Q. But this is a numbered memo?

1 A. Yes.

2 Q. And this numbered memo, like the one we just  
3 reviewed, Exhibit 12, would have been conveyed  
4 to the county boards of election?

5 A. Yes.

6 Q. Who would have been involved in the production  
7 of this numbered memo?

8 A. In 2012, certainly Gary Bartlett, likely Johnny  
9 McLean, Veronica DeGraffenreid probably. That  
10 would be the only people I would suspect would  
11 have any involvement in this.

12 Q. Do you recall conversations at the State Board  
13 of Elections at about the time of the  
14 production of this numbered memo, conversations  
15 about robust one-stop absentee voting activity  
16 in the counties?

17 A. I was not part of any of those discussions if  
18 they took place.

19 Q. And it would have -- those conversations would  
20 have involved folks in a section different than  
21 the one that you were working in at the time?

22 A. Yes.

23 Q. So you have no personal knowledge about wait  
24 times at early voting sites in 2012?

25 A. I have no personal knowledge. I know that I

1 have asked, and I know that I do not believe  
2 that we have ever tracked wait times in the  
3 counties in the past.

4 Q. Who did you ask?

5 A. I talked with Veronica DeGraffenreid and George  
6 McCue, and they provided me with that  
7 information.

8 Q. What would be involved in tracking waiting  
9 times?

10 A. Well, I think there would have to be some sort  
11 of effort by either county boards staff or  
12 precinct officials to -- some have a way of  
13 gauging wait times, and I don't -- that type of  
14 analysis has not been done.

15 Q. Have counties reported to the State Board of  
16 Elections wait times either during early voting  
17 or on election day?

18 A. I do not think we have anything that documents  
19 those types of discussions. They may have  
20 reported it in phone conversations, possibly  
21 e-mails, but as far as tracking that, we do not  
22 have data on that.

23 Q. So I'm trying to understand what might have  
24 precipitated this memo if there's no tracking.  
25 One way would be if the counties were

1           contacting the State Board saying "We're having  
2           lines, lots of crowds at our one-stop voting  
3           sites."

4           A. That could be. That could be a reason.

5           Q. What are some other possible ways that the  
6           State Board of Elections could become aware of  
7           this information?

8                         MR. PETERS: Objection to the extent it  
9           calls for speculation.

10                        THE WITNESS: That's the only -- the  
11           only -- the only way that I'm aware of. Based  
12           on the information that I've seen in our  
13           office, it would have to be phone conversations  
14           with -- with people that were not documented  
15           that I'm aware of.

16           BY MS. RIGGS:

17           Q. Can you describe for me the interactions  
18           between county boards of election and the State  
19           Board of Elections in late October before a  
20           presidential election?

21           A. I can -- when you say interactions, what do you  
22           mean by that?

23           Q. Are the county boards reaching out for guidance  
24           and assistance from the State Board on a  
25           regular basis?

1 A. I can only speak to the interaction that I've  
2 had, but I generally think county boards do  
3 reach out when they need guidance.

4 Q. When you say you can only speak to the  
5 interactions that you have, did you ask anyone  
6 at the State Board of Elections in preparing  
7 for this depo about those kinds of  
8 communications?

9 A. Did I ask specifically if counties had reached  
10 out? I generally know that the staff that we  
11 have here does take a lot -- would take any  
12 sort of question that would come from a county  
13 on any -- various topics.

14 I did not specifically ask staff  
15 members about specific conversations about wait  
16 times.

17 Q. So you have -- so if there were phone calls in  
18 October of 2012 to the State Board of Elections  
19 about wait times at early voting sites, you  
20 would not have been privy to those phone calls?

21 A. No. Those phone calls would not have come to  
22 me, and there's no documentation of those phone  
23 calls. It would have to be someone who  
24 actually just received the phone call.

25 Q. And probably for this timeframe that was

1 Veronica DeGraffenreid?

2 A. I'm not sure she would have received calls from  
3 the counties. What those calls would have been  
4 about, maybe. Gary Bartlett would probably --  
5 if people were talking about lines, that would  
6 probably be a call that would be made to him.

7 Q. Were there other people in the elections  
8 assistance section of the State Board of  
9 Elections during this timeframe, employees?

10 A. George McCue was in that section. There are  
11 other staff members, but I do not think that  
12 they took a lot of questions from the counties.  
13 However, it's certainly possible.

14 Q. I'm going to hand to you Exhibit 14.

15 (WHEREUPON, Plaintiffs' Exhibit 14 was  
16 marked for identification.)

17 BY MS. RIGGS:

18 Q. Ms. Strach, have you seen this exhibit before?

19 A. No, I have not seen this.

20 Q. Is this a numbered memo like we discussed  
21 before?

22 A. It is a numbered memo.

23 Q. Who would have been involved in the process of  
24 developing this numbered memo?

25 A. Gary Bartlett and possibly George McCue since

1 he is the contact on the document.

2 Q. So you did not review this numbered memo in  
3 preparing for the deposition today?

4 A. I did not see this depo.

5 Q. Would Veronica DeGraffenreid been involved in  
6 this?

7 A. She may not have been involved in this. From  
8 my understanding and conversations with  
9 Veronica, she did not have as much involvement  
10 with one-stop issues.

11 Q. This is the second numbered memo issued  
12 relating to one-stop voting in the 2012 general  
13 elections that we've looked at, right?

14 A. The second that you have provided to me, yes.

15 Q. Is that rare to have two numbered memos about  
16 one-stop waiting times?

17 MR. PETERS: Object to the form.

18 BY MS. RIGGS:

19 Q. You can answer to the best of your knowledge.

20 A. I couldn't answer that. I don't know.

21 MR. PETERS: Allison, we've been going  
22 about an hour and 15, 20 minutes, so I don't  
23 know if it's a good time for a break.

24 MS. RIGGS: Yes, it's a good time for a  
25 break.

1 THE VIDEOGRAPHER: Off record at 10:20.

2 (Brief Recess.)

3 THE VIDEOGRAPHER: On record at

4 10:35 a.m.

5 BY MS. RIGGS:

6 Q. Ms. Strach, can you put Exhibits 13 and 14 in  
7 front of you again?

8 A. Sure.

9 Q. Do you know anything about responses to the  
10 issuance of these numbered memos, county  
11 responses?

12 A. No, I do not.

13 Q. So you're not aware that some counties kept  
14 early voting hours open later on Saturday?

15 MR. PETERS: Objection to the form.

16 BY MS. RIGGS:

17 Q. Are you aware?

18 A. I'm not.

19 Q. Do you -- do you know what kind of -- so you  
20 have no idea how many counties extended  
21 one-stop days or times?

22 A. I do not know which counties extended one-stop  
23 days and times, no.

24 Q. And you don't know the number?

25 A. I do not.

1 Q. And George McCue or Veronica DeGraffenreid  
2 might be the ones still at the State Board who  
3 do know that?

4 A. I can't say that they know specifically that  
5 information. In my conversations, that  
6 information has not come up as something that  
7 they have discussed about specific counties.  
8 It's possible Gary Bartlett, though, I think  
9 would probably be the primary person that would  
10 know that.

11 Q. Does the State Board of Elections have any  
12 formal policy or position on how early voting  
13 should be conducted so as to avoid wait times  
14 during early voting?

15 A. Does the current State Board have a policy on  
16 that?

17 Q. Yes.

18 A. The current State Board has not had a  
19 discussion about that.

20 Q. Did the prior State Board have a policy?

21 A. I'm not aware of a policy that the State Board  
22 had. I'm not aware if they did have a policy.

23 Q. What -- who would be aware of that?

24 A. If the State Board had a policy, the chair of  
25 the State Board and the former executive

1 director of the State Board.

2 Q. Is there anyone on staff now who would have an  
3 awareness of State Board policies from the  
4 prior State Boards?

5 A. When you say specifically policies, what kind  
6 of policy regarding?

7 Q. Well, I'm trying to understand what motivated  
8 the State Board of Elections to issue numbered  
9 memos in response to robust one-stop voting  
10 activity that encouraged county boards to do  
11 what they can to minimize lines.

12 So one possible option in my mind is  
13 the State Board has a policy or a position  
14 that, you know, two-hour waits at early voting  
15 sites is unacceptable.

16 A. I am not aware of any such policy.

17 Q. Let me hand to you what's going to be marked as  
18 Exhibit 15.

19 (WHEREUPON, Plaintiffs' Exhibit 15 was  
20 marked for identification.)

21 BY MS. RIGGS:

22 Q. Ms. Strach, have you seen Exhibit 15 before?

23 A. I have not.

24 Q. Do you have any reason to believe this is not a  
25 memo from Veronica DeGraffenreid at the State

1 Board to a man named Brian Lucas about  
2 North Carolina's response to early voting  
3 survey for Hubert Humphrey Policy Fellows  
4 Program at the University of Minnesota?

5 A. I have no reason to believe it's not.

6 Q. If Veronica DeGraffenreid sent this kind of  
7 letter or survey response, who would the --  
8 would the executive director have approved this  
9 before sending?

10 A. I believe so.

11 Q. Would other members -- staff at the State Board  
12 have approved this?

13 A. I believe Johnny McLean would have probably had  
14 a role in that approval.

15 Q. Would the board itself have been involved at  
16 all?

17 A. Unlikely.

18 Q. Do you know anything about what kind of data  
19 Ms. DeGraffenreid would have looked at in  
20 compiling these survey results?

21 A. I'd need to read -- I'm not familiar with this  
22 so I would need to read it.

23 Q. Could you skim it quickly?

24 A. Sure.

25 MR. FARR: Ms. Strach, you can take

1           whatever amount of time you need to read this  
2           before you answer the question.

3                       THE WITNESS: I'm sorry.

4 BY MS. RIGGS:

5 Q. No. Have you had an adequate chance to review  
6       it?

7 A. Yes, I have.

8 Q. Based on your understanding of early voting  
9       trends, do you believe the responses under the  
10      subheading "Trends" are accurate responses  
11      about early voting trends in North Carolina?

12 A. I don't know that I can answer that question.

13                       What I can answer is that I believe  
14                       that what has been provided here is data that  
15                       would have been -- that Veronica would have  
16                       obtained from our statewide information system,  
17                       and it looks from what I'm reading is that  
18                       she's provided data from our one-stop data.

19 Q. Do you have any reason to question the accuracy  
20      of the data she's provided?

21 A. I do not.

22 Q. The answer in the last box on the second page,  
23      do you believe that's an accurate  
24      representation?

25                       MR. FARR: Objection to form.

1 THE WITNESS: I'm sorry, could you  
2 state your question one more time.

3 BY MS. RIGGS:

4 Q. Is that an accurate representation?

5 A. That early voting reduces long lines on  
6 election day, assists election officials in  
7 managing elections and reduces errors; most  
8 important, provides for greater voter  
9 participation and voter convenience?

10 Q. Yes.

11 A. Early voting -- I would agree that the people  
12 that show up before election day, you will  
13 have -- that does give greater voter  
14 participation.

15 Reduces errors, I'm not sure exactly  
16 what is meant by that so I can't really speak  
17 to what that means.

18 Assists election officials in managing  
19 elections, I assume that that is with respect  
20 to being able to determine where your turnout  
21 is and being able to plan for that, so I  
22 believe that's what is meant by that statement.

23 So I'm not in disagreement that it  
24 provides an opportunity to manage an election.

25 Q. So you don't disagree with anything; you just

1 don't understand what is meant by reduced  
2 errors?

3 MR. FARR: Objection to the form.

4 THE WITNESS: I'm not sure what was  
5 meant by this in reducing errors, no, I do not.

6 BY MS. RIGGS:

7 Q. But no disagreement generally speaking with the  
8 statement?

9 A. No general disagreement.

10 Q. Any specific disagreement?

11 A. It's very difficult for me to say reduces long  
12 lines on election day. It very well could. I  
13 guess it depends on, you know, the turnout. So  
14 it could have an impact on that.

15 Q. The complaints that apparently we don't have  
16 documentation on, but long lines during the  
17 2012 elections, were you privy to any such  
18 complaints in the 2008 election?

19 MR. PETERS: Object to the form.

20 THE WITNESS: No, I was not aware of  
21 any -- privy to any.

22 BY MS. RIGGS:

23 Q. Was that because you were focused on campaign  
24 finance?

25 MR. FARR: I am just going to assert a

1 standing objection to the term "long line"

2 because I don't know what that means.

3 If counsel would like to give a  
4 definition to that, then I withdraw my  
5 objection.

6 BY MS. RIGGS:

7 Q. I'm absolutely happy to have your definition of  
8 long lines.

9 A. I don't know what that definition of a long  
10 line is. I don't think that has been defined  
11 in any way by our agency in the past what  
12 exactly constitutes a long line. It is  
13 certainly something that I will look forward in  
14 the future of trying to do, but it's not  
15 anything I found information that we have done  
16 in the past of seeing what constitutes a long  
17 line.

18 Q. Exhibits 13 and 14 referenced two-hour lines.  
19 Would you describe that as a long line?

20 A. Would I describe that as -- two hours as being  
21 a long line. I mean, it depends on -- I would  
22 need data to see what was typically the lines  
23 were. I mean, certainly two hours is not a  
24 short time to stand in line.

25 Q. So there might be two ways we're using this:

1 Long line versus long waiting time.

2 Is two hours a long waiting time?

3 A. From the person that's actually having to wait,  
4 I would probably consider that a long waiting  
5 time.

6 Q. A long line would describe more the length of  
7 the line, I am guessing, or --

8 A. Right.

9 Q. -- or could it also include the waiting time?

10 A. I think it depends. It depends on -- I do  
11 think they're probably two different things.  
12 You could have a short line and a long wait  
13 depending what is going on in the polling place  
14 at the time.

15 It's difficult to characterize just  
16 because a line may be long, that may not say  
17 that there's going to be a long wait time. I  
18 think it just depends what's going on at the  
19 polling location.

20 MS. RIGGS: This is Exhibit 16.

21 (WHEREUPON, Plaintiffs' Exhibit 16 was  
22 marked for identification.)

23 BY MS. RIGGS:

24 Q. The first page of Exhibit 16 is an e-mail.

25 What I really want to discuss is what's behind

1 the e-mail. I'm not going to ask you about  
2 every page in this, but if you want to look at  
3 them, that's fine. Certainly look at the first  
4 page, please. And once you've had a chance to  
5 look at it, you can let me know if you've seen  
6 this before.

7 A. I've not seen this before.

8 Q. Does this appear to you to be a letter from the  
9 State Board of Elections to the committees of  
10 the North Carolina General Assembly, House  
11 Elections Committee and Appropriations  
12 Subcommittee on General Government?

13 MR. PETERS: Object to the form and,  
14 again, to clarity about what is meant by State  
15 Board of Elections.

16 THE WITNESS: There are portions of  
17 this document that I am familiar with.

18 BY MS. RIGGS:

19 Q. Okay.

20 A. I was not part of this being compiled, but  
21 obviously I have provided some of the data for  
22 this report as it relates to -- from a campaign  
23 finance perspective.

24 Q. To clarify the point that Mr. Peters raised,  
25 this is on State Board of Elections letterhead?

1 A. It is.

2 Q. And so does that mean it's from State Board  
3 staff as opposed to the Board or is there any  
4 distinction there?

5 A. Well, this is signed by Gary Bartlett.

6 Q. Okay.

7 A. So I would assume this was submitted in his  
8 capacity as executive director.

9 Q. Okay. What I would like for you to do is turn  
10 to Attachment C. Oh, it's 47884 at the bottom.

11 A. Yes.

12 Q. Before we get into that, there were -- you said  
13 I believe there were portions of this letter  
14 that you were involved in.

15 A. I recognize the charts 47872, 47873, 47874 and  
16 875, -6, and -7 are all charts provided by the  
17 campaign finance division.

18 Q. Were you involved in the drafting of the actual  
19 letter itself?

20 A. No.

21 Q. Were you involved in the compilation of any of  
22 the exhibits that aren't campaign finance  
23 related? And if you need to skim through them  
24 quickly, that's fine, or read them.

25 A. No, I was not.

1 Q. So you were not involved in compiling  
2 Attachment C?

3 A. I was not.

4 Q. And Attachment C has to do with residence,  
5 voter changes of address and unreported moves?

6 A. Yes.

7 Q. Do you know who at the State Board of Elections  
8 would have been involved in working on this  
9 attachment?

10 A. I do not know specifically who worked on this.  
11 It would have been at the direction of Gary  
12 Bartlett and Johnny McLean. So I'm not sure  
13 who they would have tasked with this specific  
14 part of the document.

15 Q. Can you turn to Attachment G.

16 A. Yes.

17 Q. Were you involved in the production of this  
18 attachment?

19 A. No.

20 Q. The first sentence of Attachment G says that it  
21 is in response to a request from  
22 representatives of the General Assembly.

23 Do you have any knowledge about that  
24 request?

25 A. I do not.

1 Q. Do you know who would have that knowledge?

2 A. Once again, I believe that any request would  
3 have come to the former executive director,  
4 Gary Bartlett.

5 Q. Because there is -- there are data involved in  
6 this, would Marc Burriss have been involved in  
7 the production of this attachment?

8 A. It's possible. We do have lots of data that is  
9 publicly available on our website, but it's  
10 possible that he could have been involved.

11 Q. Does this -- does the staff of the State Board  
12 of Elections -- well, strike that.

13 Do you disagree with any of the  
14 positions represented in Attachment G? I know  
15 you're going to have to --

16 A. Yeah, I haven't read it.

17 Q. It's three pages. It's the next three pages.

18 A. So your question is do I agree --

19 MS. RIGGS: Can you remind me what my  
20 question was.

21 (Record Read.)

22 THE WITNESS: Well, I think we would  
23 have to break it down.

24 BY MS. RIGGS:

25 Q. Okay.

1 A. There are certainly things that I don't think I  
2 can agree with or even know, and I'm not sure  
3 how anybody in some of these would know.

4 Specifically when we talk about  
5 North Carolina:

6 "However, any reduction or  
7 limitation in the current statutory  
8 framework of One-Stop voting for  
9 high-turnout elections will have two  
10 direct consequences:

11 "North Carolina voters' needs will  
12 not be accommodated."

13 I certainly can't agree with that. I  
14 don't know how -- how that statement can really  
15 be made because I believe that North Carolina  
16 voters' needs will be accommodated.

17 "With fewer opportunities to  
18 cast ballots before Election Day,  
19 traffic will be increased on Election  
20 Day increasing, demands for personnel."

21 With fewer opportunities to cast  
22 ballots before election day, I think it depends  
23 where people decide to vote. I mean, that's a  
24 very difficult thing to know. Whether you have  
25 17 days or you have ten days, it's difficult to

1 know when people will vote. Because you have  
2 fewer than 17 days does not mean that people  
3 will not have the opportunity to vote. I do  
4 not believe that is the case

5 Q. Well, I am going to come back to increasing  
6 demands for personnel, voting and other  
7 equipment and supplies. If you can just mark  
8 that in your mind.

9 A. I'm sorry, mark --

10 Q. The sentence that you just read about traffic  
11 will increase -- increasing demands for  
12 personnel, voting equipment and other supplies.

13 A. Okay.

14 Q. I'm curious about your experiences recently on  
15 that front, but is it your understanding from  
16 reading this memo that this is in response to a  
17 request from the General Assembly about the  
18 likely effects of a cut to early voting?

19 MR. PETERS: Object to form.

20 THE WITNESS: I can only base it on the  
21 first sentence in response to requests from  
22 representatives of the General Assembly. I  
23 assume that that is what was the reason for  
24 this report, but I don't have firsthand  
25 knowledge of that.

1 BY MS. RIGGS:

2 Q. The section starting on page 2, "Increased  
3 Election Costs," do you have the paragraph that  
4 starts with "First"?

5 Do you disagree with the first sentence  
6 that the popularity of one-stop voting and  
7 corresponding reduction in the proportion of  
8 voters voting on election day has allowed  
9 counties to combine precincts in certain  
10 locations?

11 A. I do know there are counties that have combined  
12 precincts. I'm not sure of the reasons why  
13 they have. We have splitting and combining of  
14 precincts that goes on with every election.

15 Q. Would Gary Bartlett have known some of the  
16 reasons for the combining of those precincts?

17 A. I would believe so.

18 Q. So you have no reason to disbelieve that  
19 sentence?

20 A. No. No.

21 MR. FARR: Objection.

22 BY MS. RIGGS:

23 Q. The paragraph that starts with the word  
24 "Third," do you agree that cutting early voting  
25 then requires some voter education efforts and

1 expenditures?

2 MR. PETERS: Object to form.

3 THE WITNESS: I don't think that it  
4 would require any more expense than it always  
5 has. It's just providing the public with  
6 information on when the hours are for voting.  
7 I don't think that would increase the cost  
8 based on any reduction in time.

9 BY MS. RIGGS:

10 Q. So there would be no -- you don't see the need  
11 for any extra effort to educate voters about a  
12 change in the timeframe in which early voting  
13 happens?

14 A. Oh, I think absolutely providing that same type  
15 of education that I believe they do with any  
16 election. Just I think that every time we have  
17 an election, not everybody knows that it's  
18 17 days.

19 So education is required every year  
20 regardless of the number of days, and so I  
21 think that certainly we want to make sure that  
22 we provide that education. I think it's just  
23 going to be something that needs to be along  
24 the lines of the same thing that the counties  
25 have provided in the past.

1 Q. The State Board of Elections is not  
2 currently -- now that early voting, the  
3 timeframe, has changed is not engaging in any  
4 different efforts?

5 A. We are providing information to the public,  
6 yes, on all the changes in the law, and  
7 that's -- that is one of the changes that we  
8 are providing.

9 So, yes, we are making -- I believe  
10 we're definitely making an effort to make sure  
11 we do educate citizens on not just one-stop  
12 sites but all the changes in the law.

13 Q. So that would to me mean there are some extra  
14 education efforts required by the change in  
15 law.

16 MR. PETERS: Objection to form.

17 MR. FARR: Objection.

18 BY MS. RIGGS:

19 Q. You can agree or disagree.

20 A. I mean, I guess my point is is that I believe  
21 there's education going on every single  
22 election. I'm not sure that extra efforts will  
23 be an extra expense, either. I don't have any  
24 specific data to be able to say that.

25 Q. All right. I'm going to come back and touch on

1           that later.

2                       This is going to be marked as  
3           Exhibit 17.

4                       (WHEREUPON, Plaintiffs' Exhibit 17 was  
5           marked for identification.)

6   BY MS. RIGGS:

7   Q.   Ms. Strach, have you seen this exhibit before?

8   A.   I have seen this before.

9   Q.   In what context have you seen it?

10   A.   This was something that I have -- that has been  
11        shown to me in the course over the last seven  
12        or eight months, and I'm not sure exactly why,  
13        but I have seen this.

14   Q.   Were you involved in the production of this  
15        memo?

16   A.   I was not.

17   Q.   Do you know why this memo was produced?

18   A.   I do not.

19   Q.   Were you involved -- who would have been  
20        involved in the production of this memo?

21   A.   I do not know specifically. Gary Bartlett  
22        would be the only person that I would say I am  
23        confident was part of this memo.

24   Q.   Could Veronica DeGraffenreid have been  
25        involved?

1 A. It's possible.

2 Q. Marc Burris?

3 A. Based on the fact that there doesn't -- there  
4 is not -- data is not included, there's not any  
5 data really that is referred to in this  
6 memorandum, it doesn't rely on any data. I'm  
7 not sure why Marc would have any involvement  
8 with this.

9 Q. Is there a page 3 of that memo?

10 A. Oh, it's possible but these turnout numbers are  
11 on our website as well, so it is possible he  
12 could, but this is information you could get  
13 from our FTP site.

14 MS. RIGGS: This is Exhibit 18.

15 (WHEREUPON, Plaintiffs' Exhibit 18 was  
16 marked for identification.)

17 BY MS. RIGGS:

18 Q. There's an e-mail on the front, but what I'm  
19 wanting to talk about is the attachment.

20 Ms. Strach, have you seen this document  
21 before?

22 A. I have not seen this document.

23 Q. So you don't know who was involved in the  
24 production of it?

25 A. I don't unless it's involved with the people

1 that have sent the e-mail.

2 Q. Okay. That's what I suspected. All right.

3 This will be -- what I am going to hand  
4 you is going to be marked Exhibit 19.

5 (WHEREUPON, Plaintiffs' Exhibit 19 was  
6 marked for identification.)

7 BY MS. RIGGS:

8 Q. Ms. Strach, this is an e-mail with two  
9 attachments. Have you seen this e-mail and  
10 attachments before?

11 A. I have. I have seen this before, yes.

12 Q. Can you just take a look at the two attachments  
13 and make sure those are what you remember the  
14 attachments being.

15 A. (Witness complying.)

16 Yes. Yes.

17 Q. What is this exhibit, Ms. Strach?

18 A. This is a survey that was done by George McCue  
19 of the counties with respect to one-stop and  
20 reduced -- the one-stop reduction, the  
21 changes -- the proposed changes in the law.

22 Q. When was the survey conducted?

23 A. Now that -- I am not sure of the date of that.  
24 It certainly would have been prior to July 1st  
25 of 2013.

1 Q. Okay. Why was a survey conducted?

2 A. I need to consult with counsel on that question  
3 as it may be privileged.

4 MR. PETERS: Okay.

5 THE VIDEOGRAPHER: Off record at 11:09.

6 (Brief Recess.)

7 THE VIDEOGRAPHER: On record at 11:14.

8 BY MS. RIGGS:

9 Q. Ms. Strach, why was this --

10 MR. PETERS: Before we go on, I need to  
11 state an objection. This is something that  
12 apparently slipped through the cracks probably  
13 because the e-mails don't reflect the  
14 background of it, but this is a document that  
15 was prepared in response to a request from  
16 Senator Josh Stein -- excuse me -- Senator  
17 Stein, and so we have to assert legislative  
18 immunity as to it and instruct Ms. Strach not  
19 to answer any questions about it unless and  
20 until Senator Stein waives his immunity.

21 MS. RIGGS: Okay. Is that the only  
22 basis of privilege that you're asserting?

23 MR. PETERS: Yes.

24 BY MS. RIGGS:

25 Q. The next exhibit --

1 MS. O'CONNOR: This is Bridget O'Connor  
2 for the NAACP plaintiffs. We would just  
3 reserve our right to reopen the deposition  
4 probably upon resolution of the legislative  
5 privilege objection.

6 MR. PETERS: Right.

7 MS. O'CONNOR: And to call Ms. Strach  
8 back to follow up on those questions as soon as  
9 possible.

10 MR. PETERS: Right.

11 MS. RIGGS: This is going to be marked  
12 as Exhibit 20.

13 (WHEREUPON, Plaintiffs' Exhibit 20 was  
14 marked for identification.)

15 BY MS. RIGGS:

16 Q. Ms. Strach, the reason I handed you this is  
17 because in the e-mail thread it appears to me  
18 to date as June 28th, the date at which the  
19 survey was sent to county boards of election.

20 A. That makes sense.

21 Q. Do you recall reviewing the attachment to this  
22 e-mail?

23 A. I was just looking at that. I might have at  
24 the time, but I don't have a specific  
25 recollection of exactly everything involved in

1 this.

2 Q. But this attachment was sent to you?

3 A. Well, probably what -- this was, I assume, an  
4 attachment -- is this an attachment to -- I'm  
5 certain that George probably did send this to  
6 me, yes. I'm not -- yes.

7 Q. Was anyone besides George McCue involved in the  
8 surveying of county boards of election?

9 A. No, not to my knowledge, unless he requested it  
10 of someone else, but he's the only person that  
11 I'm aware of.

12 Q. Is your position on legislative immunity and  
13 privilege, does that mean that you would not  
14 have shared this information with anyone else,  
15 the survey results, other than the requesting  
16 legislator?

17 MR. FARR: Objection. It's not her  
18 position. It's counsel's position.

19 BY MS. RIGGS:

20 Q. Did you share this document with anyone other  
21 than the requesting legislator?

22 A. No, I don't -- I don't believe so.

23 Q. Did you share it with other legislators?

24 A. I don't believe so. I don't believe so.

25 Q. Was the design of the survey -- were just you

1 and George McCue in the design of the survey?

2 MR. PETERS: Objection. I have  
3 instructed her not to answer any questions  
4 about the survey to the extent that they're  
5 covered by legislative immunity unless and  
6 until Senator Stein waives that immunity.

7 MS. RIGGS: Excellent.

8 This is going to be marked Exhibit 21.

9 (WHEREUPON, Plaintiffs' Exhibit 21 was  
10 marked for identification.)

11 MR. FARR: By the way, I'll note that  
12 Senator Stein could be contacted today to see  
13 if he wants to waive his legislative immunity.  
14 That would be perfectly fine with us.

15 MS. RIGGS: Would you accept a phone  
16 call?

17 MR. PETERS: Sure, if you talk with him  
18 an you put it on the record that he waived his  
19 legislative immunity on this document. We  
20 would like to get Ms. Strach's deposition over  
21 with today.

22 MS. RIGGS: Excellent. We'll try to  
23 take care of that at a break.

24 BY MS. RIGGS:

25 Q. This is an e-mail thread that you are copied

1 on. This is -- I'm sorry. Did we say what  
2 exhibit this was?

3 THE REPORTER: 21.

4 BY MS. RIGGS:

5 Q. 21. I'm sorry.

6 Do you recognize this e-mail?

7 A. I do have -- I do recall seeing -- seeing  
8 this -- this e-mail.

9 Q. In the third paragraph Mr. McCue discusses a  
10 compilation of survey responses from  
11 North Carolina's 100 counties regarding the  
12 cost of conducting an election, including early  
13 voting.

14 I assume that that is -- well, is that  
15 a different survey --

16 A. It is.

17 Q. -- other than the one we discussed?

18 A. It is.

19 Q. Who conducted that survey?

20 A. From my conversations with George McCue, he is  
21 the one that sent out that survey at the  
22 request of Gary Bartlett.

23 Q. So this was conducted prior to your --

24 A. Yes.

25 Q. -- your role?

1                   Okay. Is that survey on -- do you know  
2 why that survey was conducted beyond Gary  
3 Bartlett's request?

4       A. No. According to Mr. McCue, Mr. Bartlett said  
5 he just wanted to gather data on cost of  
6 elections, and so Mr. McCue was sort of tasked  
7 with helping him do that.

8       Q. Have you reviewed the results of that survey?

9       A. I have -- I have reviewed some of those results  
10 with Mr. McCue about -- with that in that  
11 he -- and I think there may be some other  
12 documentation about that particular survey in  
13 that Mr. McCue was concerned that it  
14 necessarily was not a good representative of  
15 costs because different counties provided  
16 different information in response to the survey  
17 and he was not sure that it was complete.

18       Q. Do you know if that survey has been produced in  
19 the course of this litigation?

20       A. If it was -- it should have been an e-mail so  
21 I'm sure it probably has.

22       Q. I'd like to switch now to talk about the  
23 aggregate hours waivers. Do you know what I'm  
24 talking about when I use that term?

25       A. I do.

1 MS. RIGGS: This is being marked as  
2 Exhibit 26.

3 THE REPORTER: 22

4 (WHEREUPON, Plaintiffs' Exhibit 22 was  
5 marked for identification.)

6 MR. FARR: Do you want to skip 22  
7 through 25.

8 MS. RIGGS: I'm skipping a lot of them.  
9 I'm running out of time.

10 BY MS. RIGGS:

11 Q. Ms. Strach, you have seen this exhibit, I'm  
12 assuming, since it has your name on it.

13 A. I have.

14 Q. Is this a numbered memo you produced explaining  
15 some of the changes to North Carolina Election  
16 Law from Session Law 2013-381 but also  
17 explaining this aggregate hours requirement  
18 that I talked about?

19 A. Yes.

20 Q. Who was involved in developing this memo?

21 A. George McCue assisted me with this memo.

22 Q. Anyone else?

23 A. I believe George is probably -- George was  
24 probably the only person. I'm looking -- at  
25 the time Susan Nichols, at our Attorney

1 General's office, might have been involved in  
2 some of this, but that's the only staff member  
3 would be George, I believe.

4 Q. Would Don Wright have been involved?

5 A. I don't think Don had any involvement in this.

6 I don't believe he did. He might have -- he  
7 might have reviewed it, a copy of it, but I  
8 don't recall unless George might have sought  
9 some assistance from him, but I don't recall  
10 having him.

11 Q. Did you have discussions prior to the -- well,  
12 let me strike that.

13 Well, let me just introduce this. This  
14 is -- let's mark this as Exhibit 23.

15 (WHEREUPON, Plaintiffs' Exhibit 23 was  
16 marked for identification.)

17 BY MS. RIGGS:

18 Q. Ms. Strach, this is an e-mail thread between  
19 George McCue, Don Wright and you. There are  
20 some other people involved. But do you recall  
21 seeing these e-mails before?

22 A. This would have been certainly, yeah, one of  
23 the e-mails that would have been exchanged  
24 during that time of looking at this, yes.

25 Q. And these e-mails were sent right before the

1 issuance of the numbered memo; is that correct?

2 A. Yes.

3 Q. Were -- so was Don Wright involved in  
4 discussions about what the aggregate hours  
5 requirement actually meant?

6 A. Don Wright probably was involved in -- he could  
7 have been involved in discussions about that.  
8 He could -- absolutely could have been.

9 I recall that -- working on the memo,  
10 George and I worked on the memo, but certainly  
11 there were probably conversations that we would  
12 have that Don probably was part of and  
13 obviously here he was.

14 Q. And on an earlier thread Veronica DeGraffenreid  
15 and Brooks Garrett-Jones were copied?

16 A. I see they're copied, yes.

17 Q. Did they -- have they worked on one-stop issues  
18 in this current election cycle?

19 A. Generally Veronica is going to be involved in  
20 some of that just from an election support  
21 standpoint and what assistance is going to be  
22 needed provided to the counties during one-stop  
23 and any other county voting times.

24 Brooks Garrett-Jones is our voting  
25 systems. He works with voting systems, so his

1 primary role is working with making sure that  
2 the machines -- the coding is done correctly  
3 for the counties, and so he probably would have  
4 been copied because of that involvement he  
5 would have in the process.

6 Q. I don't think we talked about Brooks before.

7 A. I don't think we did either.

8 Q. He is -- how long has he been at the State  
9 Board of Elections?

10 A. I'm thinking Brooks came maybe 2005, 2006.

11 Q. And has his job title been that same job title  
12 you just mentioned that whole time?

13 A. I believe so.

14 Q. The decision to issue a numbered memo on the  
15 one-stop aggregate hours requirement, was that  
16 in response to questions you'd had from the  
17 county -- counties? I'm sorry.

18 A. Yes. We had a training seminar in August of  
19 2013, and that was -- this was certainly one of  
20 the subjects that we discussed at that training  
21 session was how county boards would prepare for  
22 the primary, specifically the primary, and what  
23 we would need -- instructions we would need to  
24 give to them to do that.

25 And so there was -- they wanted to make

1           sure they knew exactly what they needed to do  
2           in order to make sure they met the hours match.

3                       MS. RIGGS: Can you mark this as  
4           Exhibit 25.

5                       THE REPORTER: 24.

6                       (WHEREUPON, Plaintiffs' Exhibit 24 was  
7           marked for identification.)

8           BY MS. RIGGS:

9           Q. Ms. Strach, would these be some of the  
10           questions from the counties that arose during  
11           that August training that you just mentioned?

12           A. Yes.

13           Q. And the numbered memo was designed to answer  
14           some of these questions?

15           A. I'm sure that these questions were taken into  
16           consideration when the memo was drafted.

17           Q. How were these questions compiled?

18           A. At the training seminar, we had a Q and A  
19           session for each of the counties. We had three  
20           sections, and the counties were broken up into  
21           three groups based on the size of your county  
22           and they were given the opportunity during this  
23           block -- during our time to ask any questions  
24           they had, and I believe that this document was  
25           probably used to compile questions that were

1 posed during those sessions.

2 MS. RIGGS: Can we mark this as 25.

3 (WHEREUPON, Plaintiffs' Exhibit 25 was  
4 marked for identification.)

5 BY MS. RIGGS:

6 Q. Ms. Strach, is this another numbered memo you  
7 produced on one-stop implementation plans for  
8 the May 2014 primary?

9 A. Yes.

10 Q. Does this memo further explain the aggregate or  
11 cumulative hours requirement?

12 A. Yes.

13 Q. This was issued in January 2014?

14 A. Yes.

15 Q. Had some county boards already applied for  
16 waivers from the aggregate hours requirement at  
17 this point?

18 A. I believe so.

19 Q. Why was this numbered memo issued?

20 A. I need to go back and refresh my memory.

21 The purpose of this was that George  
22 McCue had worked to create a tool to assist  
23 counties in providing information that we would  
24 need for one-stop implementation plans, and  
25 this was one of the -- the purpose I believe of

1           this particular memo was to introduce that to  
2           them.

3           Q. Then this is Exhibit 26 that I am having marked  
4           and handed to you.

5                               (WHEREUPON, Plaintiffs' Exhibit 26 was  
6           marked for identification.)

7           BY MS. RIGGS:

8           Q. This is a third numbered memo on the aggregate  
9           hours requirement; is that correct?

10          A. Yes.

11          Q. And this was specifically for counties who were  
12          seeking a waiver?

13          A. Yes.

14          Q. Some counties had sought a waiver already?

15          A. I believe so. I'm not sure of the first  
16          waivers that were considered by the Board. I'm  
17          not sure.

18          Q. This should help with that. This is  
19          Exhibit 27.

20                               (WHEREUPON, Plaintiffs' Exhibit 27 was  
21          marked for identification.)

22                               THE WITNESS: Yes.

23          BY MS. RIGGS:

24          Q. Ms. Strach, this is a list of all of the  
25          counties that have applied for waivers, that

1 is, to not meet the aggregate hours requirement  
2 for the May 2014 primary; is that correct?

3 A. Correct.

4 Q. And am I right that this is a complete list of  
5 all waivers that were submitted?

6 A. Yes, this appears to be complete because there  
7 were in a total 41.

8 Q. It looks like the first waiver was received on  
9 November 15, 2013; is that correct?

10 A. That -- that -- yes.

11 Q. Sorry, this is a big one. This is going to be  
12 marked Exhibit 28.

13 (WHEREUPON, Plaintiffs' Exhibit 28 was  
14 marked for identification.)

15 BY MS. RIGGS:

16 Q. Going through this would take an awfully long  
17 time. I'll represent to you that Phil Strach  
18 sent an e-mail to counsel in this case with I  
19 believe it was called updated interim  
20 production and a link to the website, and these  
21 are the -- printed from that link the early --  
22 the aggregate hours waivers from the 41 that  
23 were listed in this chart.

24 A. Okay.

25 Q. Each one of these was considered by the State

1 Board of Elections, the Board itself?

2 A. Yes.

3 Q. Can you explain to me what the Kricker criteria  
4 are?

5 A. That was a term coined by our chairman, I  
6 believe. At a particular meeting Dr. Kricker  
7 had -- she was trying -- I believe that in an  
8 effort to try to be consistent, she had certain  
9 time periods that she felt that she wanted the  
10 plans that were seeking a reduction to have to  
11 have certain time periods covered and the  
12 chairman coined that as sort of the Kricker  
13 criteria.

14 Q. Ultimately were all of the waivers requested by  
15 counties approved?

16 A. No. There were 41 submissions. There were 38  
17 approvals. The 41 is there were some  
18 resubmissions. I believe -- I know that Hope  
19 County was not approved and there might have  
20 been one more, but it's not -- let's see.

21 If they were not initially approved,  
22 they were given the opportunity, the Board, to  
23 resubmit, and I think that's why we had 38  
24 approvals. We had 41 submissions. Hope County  
25 did not resubmit.

1 Q. Hope County submitted a non-unanimous early  
2 voting plan, one-stop voting plan; is that  
3 correct?

4 A. Separate from this, yes.

5 Q. And in that one-stop non-unanimous plan, were  
6 the final hours the same number of aggregate  
7 hours offered in 2010?

8 A. Yes.

9 Q. And when Swain and Vance resubmitted, those  
10 were approved?

11 A. Yes.

12 Q. Why did Swain and Vance resubmit?

13 A. I believe that the State Board, the members  
14 that did not approve initially, had issues with  
15 the Sunday hours, and they resubmitted taking  
16 those out and all five members then approved.

17 Q. What were the reasons that the -- so was it the  
18 hours on Sunday themselves or the fact that  
19 there was Sunday voting?

20 A. I believe that it was that two board members  
21 had problems with the Sunday voting hours, the  
22 voting being on Sunday.

23 Q. Was the implication to the county, then, that  
24 if they took away Sunday voting the plan would  
25 get approved?

1 A. I don't think that we would ever make that  
2 implication.

3 What we explained to them is what was  
4 stated in the meeting of why it was not  
5 approved and gave them an opportunity to  
6 resubmit.

7 Q. And they did take Sunday voting off?

8 A. Yes.

9 Q. Does the State Board, the Board itself, have  
10 any formal positions on Sunday voting?

11 A. This Board does not. I do not -- I'm not aware  
12 of the State Board having position -- made any  
13 positions in the past as well on that.

14 Q. Are you aware of the availability of Sunday  
15 voting in this election compared to May 2010,  
16 and by that I mean the number of counties  
17 offering it?

18 A. I have not made a comparison to -- to -- from  
19 this election to 2010.

20 Q. Was cost one of the reasons that counties asked  
21 for a waiver from complying with the aggregate  
22 hours requirement?

23 A. As I recall, there were various reasons that  
24 counties asked for that. Cost could have been  
25 one of the reasons that some of the counties

1 did ask for it.

2 Q. Cost was in fact one of the reasons?

3 A. Right. That does not surprise me at all.

4 Q. Yeah. I don't want to go through one by one,  
5 but the reasons offered by the county in these  
6 waivers applications would speak for  
7 themselves?

8 A. Yes.

9 MS. RIGGS: This is Exhibit 29.

10 (WHEREUPON, Plaintiffs' Exhibit 29 was  
11 marked for identification.)

12 BY MS. RIGGS:

13 Q. Ms. Strach, these are just the orders on the  
14 waivers?

15 A. Right.

16 Q. I just wanted to get those into the record.

17 MR. PETERS: Was this 29?

18 THE REPORTER: Yes.

19 MS. RIGGS: All right. I promise I'm  
20 getting close to being done here.

21 Ms. Strach, I am handing you what is  
22 going to be Exhibit 30.

23 (WHEREUPON, Plaintiffs' Exhibit 30 was  
24 marked for identification.)

25 BY MS. RIGGS:

1 Q. Have you seen this exhibit before?

2 A. I have.

3 Q. This is a presentation that you gave to the  
4 Joint Legislative Elections Oversight  
5 Committee.

6 A. Yes.

7 Q. And the names -- the authors on the front page  
8 would be the State Board staff involved in  
9 gathering this information and delivering it?

10 A. Yes.

11 Q. This is a long document. I really only want to  
12 ask you questions at the end that have to do  
13 with voter education.

14 These are not numbered, I'm sorry, but  
15 if you look at the fourth page from the end,  
16 there's a 2014 Primary Voter Guide.

17 A. Yes.

18 Q. I want to understand the education efforts  
19 taken by the State Board of Elections --

20 A. I'm sorry, you are absolutely right, there is,  
21 but I --

22 Q. I think it's four pages from the end.

23 A. I don't think it's that.

24 Q. Maybe I --

25 A. It would have been after --

1 Q. Maybe that is a bad copy. Can I get someone  
2 else's copy. I'm sorry.

3 A. That's okay.

4 Q. I think that may be missing some pages.

5 MR. FARR: Mine's missing some pages,  
6 too.

7 MS. RIGGS: Sorry about that. Let's  
8 get the double-sided one.

9 BY MS. RIGGS:

10 Q. Now, do you see what page at the end that I'm  
11 talking about -- it's going to be two pages  
12 from the end -- the voter guide?

13 A. Yes.

14 Q. To whom is the voter guide sent?

15 A. It is sent to every household or every  
16 residential address -- every household address  
17 that the postal service has.

18 Q. So the postal service provides you a list of  
19 statewide addresses and that is to whom this  
20 mailing is sent?

21 A. That is correct. It's the mailing service that  
22 we contract with.

23 Q. Okay. Is this a document that you send before  
24 every election?

25 A. We have been sending a document, this voter

1           guide, since 2004. It is -- the purpose or the  
2           reason behind the voter guide, it was part of  
3           the Judicial Campaign Fund and it was part of  
4           that program that we would send a voter guide  
5           that included statewide judicial candidates and  
6           provided education to voters or even non-voters  
7           on voter registration and other election law.

8                        So this has been a guide that has  
9           either been printed and mailed since 2004 or  
10          available on our website.

11                       MR. FARR: May I ask a question for  
12          clarification?

13                       MS. RIGGS: Sure.

14                       MR. FARR: This document doesn't  
15          include the entire voter guide, does it?

16                       THE WITNESS: No. No.

17 BY MS. RIGGS:

18 Q. Will this document be sent before the  
19          November 2014 elections?

20 A. Yes.

21 Q. Do all of the -- when you mail them out to  
22          every household that the mailing service gives  
23          you, do some of them get returned?

24 A. I am sure that some probably do, and I'm trying  
25          to remember how we have dealt with those. The

1 mail house probably provides us that.

2 Q. And I suppose I should clarify. When I say  
3 returned, I mean returned as undeliverable.

4 A. I'm sure -- I'm sure there will be some that  
5 would be returned undeliverable. I'm not sure  
6 what -- I'm not sure what our process has been  
7 to deal with that.

8 Q. How many of these were sent out?

9 A. I believe that there were more than 4 million  
10 that were sent out. It's households.

11 Q. Households. So that's fewer than the number of  
12 registered voters in the state?

13 A. The households would be different, fewer than  
14 that, yes.

15 Q. So you don't know how many actually arrived at  
16 a destination?

17 A. I don't. The only information that has been  
18 provided to us from the mail house, they have  
19 provided us information when they have mailed  
20 all of these and all of them have been mailed.

21 Q. Do you do any checking with voter registration  
22 databases to make sure your -- your voter  
23 registration database to make sure every  
24 registered voter receives a copy?

25 A. No, there is not -- there's not a check with

1 our voter registration database because the  
2 purpose of this guide is to reach not only  
3 registered voters but to reach people in  
4 North Carolina that may be eligible to register  
5 and vote.

6 Q. Besides having this information on your website  
7 and sending out the primary guide to  
8 households, has the State Board engaged in any  
9 media work, radio, newspaper, TV, to educate  
10 voters about the change to -- the changes in  
11 House Bill 589?

12 A. No, not at this time we have not engaged in  
13 radio or TV.

14 Q. Do you plan to do so?

15 A. We plan on using all the different media that's  
16 available to us as we go forward, yes.

17 Q. Will any of that be done prior to the primary  
18 elections?

19 A. Specifically with --

20 Q. The media outreach to educate voters.

21 A. It's possible. We are -- we are working on  
22 some videos right now internally that we will  
23 be putting out on our website that will for  
24 education purposes, but as far as are you  
25 talking about as contracting with media and

1 radio, we will be doing -- you know, we have a  
2 public information officer that's getting out  
3 and doing interviews and doing things of that  
4 nature to get this information out.

5 Q. What section is the public information officer  
6 in?

7 A. Well, it's really -- it's going to be in the  
8 voter outreach team as well.

9 Q. So it's a new position?

10 A. It's a new position.

11 Q. The -- the voter outreach team, is that also  
12 called the VIVA Outreach Team?

13 A. Yes.

14 Q. I'm looking at the last slide and that seems to  
15 be what it was called.

16 Will those outreach employees be  
17 talking about all of the changes to the voting  
18 law?

19 A. Yes. Yes.

20 Q. Describe for me some of the activities -- so  
21 there are seven positions and one of them is  
22 the -- I'm sorry, what did we just call it?

23 A. The public information officer.

24 Q. So one of the seven is the public information  
25 officer.

1 A. Right.

2 Q. What would be some of the tasks of the other  
3 six or however many you have hired so far?

4 A. Well, we have four positions that their primary  
5 role is going to be education and outreach. So  
6 we have one of those positions currently that  
7 has been employed and started two days ago.

8 So what that person is doing and what  
9 the other team members will be doing is they  
10 will be looking at ways to partner in the  
11 counties with advocacy groups or groups that  
12 are in touch with -- with voters to help get  
13 that message out in addition to -- and that is  
14 about educating people about the entire bill  
15 and all the changes that are going on.

16 And they will also have a role in  
17 helping to get people that we identify that may  
18 not have an ID, are able to get an ID, and we  
19 put them in contact with DMV or put them in  
20 coordination with the DMV mobile unit, so  
21 that's going to be primarily their role.

22 Q. Do you have any documentation on the activities  
23 of these outreach employees to date?

24 A. No, because those positions haven't been filled  
25 so we are in the planning process.

1 Q. When was the first position filled; do you  
2 remember?

3 A. The first position meaning the --

4 Q. On the outreach -- in the outreach section.

5 A. Right. That would have been the public  
6 information officer, which that position was  
7 not filled -- that position started the day of  
8 our statewide conference which would have been  
9 in late March.

10 Q. March 24th?

11 A. March 24th, you're exactly right.

12 Q. Did counties receive -- were there any  
13 appropriations made for counties to engage in  
14 voter education efforts around the changes in  
15 House Bill 589?

16 A. There were not specific appropriations for the  
17 counties individually to -- to engage in voter  
18 outreach. That money was appropriated for the  
19 State that we intend to use, you know,  
20 providing information in the counties as well.

21 Q. But you'll be doing the activity as opposed  
22 to --

23 A. Yes.

24 Q. -- as opposed to the counties?

25 A. Yes, in coordination with the counties.

1 Q. What are some ways that -- and I recognize that  
2 there's probably a bunch of different answers,  
3 but what are some of the common ways that  
4 county boards of election educate voters about  
5 the early voting timeframe available to them?

6 A. You're right, there are -- counties do lots of  
7 different things. Some counties -- I mean,  
8 they utilize their website. Some of our  
9 counties do information sessions where they  
10 invite the media or they invite interest groups  
11 in and they talk to them about that. A lot of  
12 our counties do that.

13 They have -- they engage the parties in  
14 their county on providing that information so  
15 that there is more of an outreach effort with  
16 the groups within their county. Some of them  
17 do press releases with their media, their local  
18 media. They bring those people in in order to  
19 make sure that that information is reported to  
20 the best that they can do that.

21 There -- there are certainly different  
22 ways like that that each county looks at how  
23 they best can get that information out.

24 Q. Does the State Board do any audits of the voter  
25 education work that the counties have been

1           doing; that is to say, do they track what  
2           efforts are being done by each county?

3           A. There's not a tracking per se. We certainly  
4           are -- at each of our training sessions that  
5           has been something that we have stressed is the  
6           importance of them providing -- providing  
7           education and information to the people within  
8           their county, but as far as an audit of those,  
9           we have not conducted an audit.

10          Q. Have you had any communications with county  
11          boards of election about increasing their voter  
12          education efforts in light of the changes to  
13          North Carolina's Election Laws?

14          A. Yes. As I said, we've had -- since the law was  
15          passed, we've had three sort of statewide  
16          training opportunities where the counties have  
17          been there, and at each one of those training  
18          seminars discussion has been about the  
19          increased need for us to provide education to  
20          the people in their counties and to partner  
21          with us and introducing the fact that we will  
22          have outreach team that will be contacting  
23          counties directly to partner with them and get  
24          information from them on how we better can  
25          educate people in their counties. So that has

1           been a primary thing that we've talked about in  
2           each one of these training opportunities.

3           Q.   And when you say "us," you mean the State --

4           A.   State Board staff.

5           Q.   Not speaking on behalf of the counties --

6           A.   Correct.

7           Q.   -- we need to do more?

8                       Okay.  I am going to segue very quickly  
9           to talking about provisional ballots.

10                       (WHEREUPON, Plaintiffs' Exhibit 31 was  
11           marked for identification.)

12           BY MS. RIGGS:

13           Q.   Have you seen this document that I just handed  
14           you, this document that has been marked as  
15           Exhibit 31?

16           A.   I have at some point seen this document.  I'm  
17           familiar that we have this document.

18           Q.   This is produced by the State Board of  
19           Elections?

20           A.   Yes.

21           Q.   And it's called the "Provisional Voting  
22           Administrative Procedures," that's the title on  
23           the cover?

24           A.   Yes.

25           Q.   This is the -- this version on the bottom, it

1 says "Last revised 9/2011." Is there a more  
2 recent version?

3 A. Not that I'm aware of, no. This was part of  
4 what was called the Election Uniformity  
5 Project, which was something that has been a  
6 project of the agency for many years. So I'm  
7 not sure exactly when this was first put  
8 together, and I don't -- I'm not aware of a  
9 later revision.

10 Q. Who would have worked on this manual? I'm  
11 sorry, I call it a manual. This document.

12 A. This particular document, I'm not sure. As I  
13 said, the Election Uniformity Project was  
14 started probably in 2003 or '04, so there were  
15 documents probably that were compiled at that  
16 time and maybe revised by staff over the years.

17 So I'm not sure who would have worked  
18 on this and when this first was produced.

19 Q. To whom is this -- this document or manual, to  
20 whom is it distributed?

21 A. Well, the documents -- my understanding of the  
22 documents that are part of the Election  
23 Uniformity Project was something that was  
24 provided to the counties via our website, what  
25 we call the Election Resource Center, and that

1 is probably where documents such as these would  
2 be maintained.

3 Q. Are there any plans to update this document?

4 A. There are plans to up -- of looking at all of  
5 our -- the documents in the Election Uniformity  
6 Project and in the Election Resource Center  
7 there's a review that's going on now currently  
8 to update any document that needs updating.

9 Q. And the State Board of Elections website  
10 changed recently; is that correct?

11 A. That's correct.

12 Q. Is the Election Resource Center still on the  
13 website?

14 A. It -- it now is. It was just -- we had to  
15 go -- in the change, we decided to go and  
16 review that. So that has now been put back on  
17 the website so it's now currently available.

18 Q. Is this document on the website right now?

19 A. I'm not sure. I haven't looked specifically.

20 Q. Can you just look at the second page, I guess  
21 it's page 2-2, the Bate stamp at the bottom is  
22 25863.

23 A. Yes.

24 Q. And this lists under Part C whose provisional  
25 ballots will count and it lists categories of

1 provisional ballots.

2 A. Right.

3 Q. Is one of those out-of-precinct voters?

4 A. Yes, it is.

5 Q. Number 5?

6 A. Yes.

7 Q. And the laws with regards to that has changed,  
8 correct?

9 A. Correct. So hopefully it's not out there in  
10 its current form. I will see that it is not.

11 MR. FARR: What's that? What was your  
12 last statement?

13 THE WITNESS: I said I will see that  
14 this document in its current form is not on our  
15 website.

16 (WHEREUPON, Plaintiffs' Exhibit 32 was  
17 marked for identification.)

18 BY MS. RIGGS:

19 Q. I am handing you what is going to be marked as  
20 Exhibit 32. And the e-mail is just for  
21 identifying purposes.

22 The document I want to the ask about  
23 starts on page 2. It's entitled "Out of  
24 Precinct Provisional Timeline."

25 Have you seen this document before?

1 A. I haven't.

2 Q. You weren't involved in its creation?

3 A. I was not.

4 Q. You can't speak to why it was created?

5 A. I cannot.

6 Q. Do you have any reason to doubt that it was  
7 created by Don Wright on February 9, 2005?

8 A. No, I do not.

9 MS. RIGGS: This is Exhibit 33.

10 (WHEREUPON, Plaintiffs' Exhibit 33 was  
11 marked for identification.)

12 BY MS. RIGGS:

13 Q. And again, the first page is just an e-mail to  
14 identify the document, if that's helpful. And  
15 my question is: Have you seen this document  
16 before?

17 A. Apparently I have. I see that it was e-mailed  
18 to me in 2005. I sent -- I sent -- yeah, I  
19 sent this to -- yes.

20 Q. So you have seen this document before?

21 A. Based on this. I don't have a specific  
22 recollection of this document, but I am aware  
23 of -- I must have had a role in it because I  
24 sent it to Gary Bartlett and Johnny McLean, or  
25 at least some version of it, and I'm not sure

1           why either. I'm not sure.

2           Q. Do you remember playing any role in the  
3           drafting or the compilation of the materials in  
4           the affidavit?

5                         MR. PETERS: Objection to the  
6           characterization that it's an affidavit. It's  
7           not signed.

8                         THE WITNESS: I likely would have been  
9           involved in part of this. I don't recall being  
10          the one that drafted this, but I probably was  
11          involved if asked to compile data or other  
12          information with respect to this document.

13          BY MS. RIGGS:

14          Q. Do you remember or do you know was a signed  
15          version of this affidavit filed with the  
16          committee that's listed on top of the unsigned  
17          affidavit?

18          A. I don't know the answer to that question.

19          Q. Do you remember what part of the affidavit you  
20          would have been working on?

21                         MR. PETERS: Object to form.

22                         THE WITNESS: I had a role in assisting  
23          with the data that was compiled about --  
24          concerning provisional ballots in 2004 in this  
25          particular race, the Atkinson/Bill Fletcher

1 race. I am not sure exactly what documents I  
2 helped compile, but I was part of that process.

3 BY MS. RIGGS:

4 Q. Did you receive requests for information from  
5 the legislature on data relating to  
6 out-of-precinct provisional ballots?

7 MR. PETERS: Objection. This was in  
8 the context of a proceeding before the General  
9 Assembly, not requests from legislators.

10 BY MS. RIGGS:

11 Q. Right. So my question -- I'm sorry. Let me  
12 rephrase.

13 Prior to this proceeding in front of  
14 the General Assembly, did you receive requests  
15 for information from members of the General  
16 Assembly?

17 MR. PETERS: Object to the extent it  
18 involves legislative immunity or privilege.

19 THE WITNESS: I don't know is the  
20 answer. I don't know if I -- I probably would  
21 not have been the one to receive any such  
22 requests from a legislator or anyone at that  
23 time.

24 I would have been given instructions by  
25 Gary Bartlett as to what he needed me to do if

1 he received a request.

2 MS. RIGGS: Okay. This is Exhibit 34.

3 (WHEREUPON, Plaintiffs' Exhibit 34 was  
4 marked for identification.)

5 BY MS. RIGGS:

6 Q. These are two e-mails that were produced. The  
7 first one is from -- is the more recent one, or  
8 the first one is from you to Marc Burris and  
9 the second one is Marc Burris to you.

10 The attached Excel sheet was  
11 5,000 pages long so I did not produce it, but I  
12 want to know -- well, one, do you remember  
13 these e-mails?

14 A. I do remember these e-mails.

15 Q. You asked Marc Burris to help you -- I'm sorry,  
16 what is this -- for his analysis on some  
17 out-of-precinct provisional data; is that  
18 correct?

19 A. Yes.

20 Q. Why did you want this information?

21 MR. PETERS: Objection. This is  
22 another document that slipped through the  
23 cracks. This is attorney work product or  
24 attorney-client -- or attorney work product.  
25 This was based on communications with counsel

1 in the context of this litigation.

2 MS. RIGGS: Okay.

3 MR. PETERS: So we would ask that this  
4 and the spreadsheet attached to it be returned.

5 MR. FARR: I will say it was  
6 attorney-client privilege.

7 MS. RIGGS: All right.

8 I'm on my last set here. This is going  
9 to be marked Exhibit 35.

10 (WHEREUPON, Plaintiffs' Exhibit 35 was  
11 marked for identification.)

12 MS. O'CONNOR: Just for the record, we  
13 would ask that you send a written request, if  
14 you're going to be clawing that document back,  
15 and providing basis that the type of  
16 information that we would get on a privilege  
17 log as to that document.

18 MR. PETERS: Sure, would be glad to.

19 BY MS. RIGGS:

20 Q. Ms. Strach, have you seen this presentation  
21 before?

22 A. Yes, I have.

23 Q. This was one of the county trainings you  
24 discussed?

25 A. Yes.

1 Q. In this training, did you discuss the change in  
2 law as it relates to out-of-precinct  
3 provisional ballots?

4 A. I'm sure that we did.

5 Q. What are you instructing county boards to train  
6 their poll workers on when it comes to a voter  
7 who wants to vote in the incorrect precinct?

8 A. We are instructing our counties -- and I have  
9 actually provided a numbered memo on this. I'm  
10 not sure if you have that or not -- if someone  
11 presents to a polling place and they are not in  
12 their correct precinct, if it is an unreported  
13 move, they are to provide the information to  
14 that voter of where their correct precinct is  
15 and direct them to that correct precinct or a  
16 central location for that county that's been  
17 established. If someone else -- and do a  
18 precinct transfer.

19 If that person has presented and it's  
20 not an unreported move, they are being  
21 instructed to advise the voter they need to go  
22 to their proper precinct if they want their  
23 ballot to be counted.

24 Q. So "their" being the poll worker will inform  
25 the voter that their provisional ballot will

1 not be counted if they are in the incorrect  
2 precinct?

3 A. Yes.

4 Q. Now, let me give you what will be marked  
5 Exhibit 36.

6 (WHEREUPON, Plaintiffs' Exhibit 36 was  
7 marked for identification.)

8 BY MS. RIGGS:

9 Q. Do you recognize this presentation?

10 A. I do.

11 Q. Was this presentation given at the March 24th  
12 conference?

13 A. Yes, it was.

14 Q. Can you turn to page 8. I want to make sure I  
15 understand the difference between an unreported  
16 move and an out-of-precinct move.

17 Is it possible that an unreported move,  
18 if the voter appears at his or her old precinct  
19 and votes a provisional ballot, that that  
20 ballot may be counted for the elections that  
21 the voter is eligible to vote for?

22 A. If it is an unreported move and the person  
23 presents to the polling place they have moved  
24 from that polling location more than 30 days  
25 and that they do not go to the new precinct or

1 the central location, they will be offered a  
2 provisional ballot. That is the -- the one  
3 instance where someone voting out of precinct  
4 that their ballot will be counted for the  
5 offices in which they're eligible to vote for.

6 Q. And counties are being told to tell voters in  
7 those circumstances that their provisional  
8 ballot could be counted?

9 A. Yes. Yes.

10 Q. And I actually do not have a copy of that  
11 numbered memo, but it was issued after this  
12 presentation; is that correct?

13 A. Yes, it was.

14 Q. If I recall correctly, it was trying to clarify  
15 some confusion and it said this is the rule  
16 from here on out?

17 A. Yes. Yes.

18 Q. But it is actually consistent with the slide on  
19 the bottom of page 8, right?

20 A. Yes, it is.

21 Q. That is all that I have for right now.

22 MS. RIGGS: I think our plan is to get  
23 in touch with Senator Stein over the lunch  
24 break and come back with an answer, so I might  
25 have a few questions back on that survey when

1 we get back on that, but other than that, I  
2 would turn it over to Mr. Cooper for  
3 questioning. Whether you want to get started  
4 now or take your lunch break now, I defer to  
5 your --

6 MR. FARR: Take a break.

7 MR. PETERS: At least take a break if  
8 not at lunch break. Ya'll are probably in a  
9 better position to gauge going forward whether  
10 it's a good time for a lunch break.

11 MS. MACKIE: We have lunch here. It's  
12 in the conference room directly cross.

13 MR. PETERS: This is why we schedule  
14 these depositions here.

15 MR. COOPER: This would be a good time  
16 to break for lunch.

17 THE VIDEOGRAPHER: Off the record at  
18 12:12 p.m.

19 (Lunch Recess.)

20 THE VIDEOGRAPHER: On record at  
21 1:05 p.m.

22 MS. RIGGS: Ms. Strach, before we  
23 transfer over to Mr. Cooper, there's two things  
24 I want to do. First, I want hand you what will  
25 be marked exhibit 37. It's the numbered memo

1           that we discussed earlier.

2                         (WHEREUPON, Plaintiffs' Exhibit 37 was  
3 marked for identification.)

4           MS. RIGGS: I don't have any questions  
5 about it.

6                         Then my final question what we marked  
7 as Exhibit 30, the document that was missing  
8 some pages -- this is the same document but it  
9 has page numbers in the bottom, and I think  
10 that's going to be easier in the future. So  
11 you can check and make sure it's the same  
12 document; then if we can just remark that.

13           MR. COOPER: Just for the record,  
14 Exhibit 30 has the URL that we downloaded it  
15 from on the bottom. That's something we added.  
16 And we also added those slide numbers so it's a  
17 little easier to refer to.

18           THE WITNESS: Great.

19                                 EXAMINATION

20 BY MR. COOPER:

21 Q. Before I get started, can you confirm for the  
22 record that you and Ms. Riggs were discussing  
23 Exhibit 37 a few moments ago before we broke.

24 A. Yes. Yes.

25 Q. And let me ask you a question about the subject

1 of that memo. Can you explain the difference  
2 between an out-of-precinct provisional ballot  
3 and an unreported move provisional ballot?

4 A. Yes. An out-of-precinct provisional ballot,  
5 what we consider out of precinct is someone who  
6 has presented at a polling place where they are  
7 not on the poll book as a registered voter for  
8 voting purposes in that precinct. That is an  
9 out-of-precinct voter not because they have  
10 moved but they have just shown up at a polling  
11 place that is not their assigned polling place.

12 Q. So if the voter is not registered at all, could  
13 they be considered an out-of-precinct voter?

14 A. If they're not registered at all, that would  
15 not be the reason why, no, they would not be an  
16 out-of-precinct voter. They just would be an  
17 unregistered voter.

18 Q. Okay. I just want to make sure that we had it  
19 clear on the record --

20 A. Sure.

21 Q. -- what an out-of-precinct voter is.

22 A. An out-of-precinct voter is a registered voter  
23 that presents at a precinct that is not their  
24 assigned precinct.

25 Q. And that's in the same county as the

1 registration?

2 A. In the same county, yes.

3 Q. Okay. Thank you.

4 And what's the difference between that

5 type of voter and the unreported-move voter

6 that's addressed by the memo in Exhibit 37?

7 A. An unreported-move voter is a voter who shows

8 up at their old precinct and when they state

9 their address, they state they had moved from

10 that old address more than 30 days prior to

11 that day, and therefore they are not -- they

12 are no longer entitled to vote the ballot in

13 that old precinct. That would be an unreported

14 move.

15 Q. Is there any difference in the procedures

16 followed at a polling place for those two types

17 of voters?

18 A. Yes. Now, with the change in legislation, the

19 voter that shows up that is not on the poll

20 book, not because they haven't moved but

21 because they have shown up to a precinct that

22 is not their assigned precinct, they would be

23 told that they would need to be directed to

24 their proper precinct and told that that is

25 where they need to cast their ballot.

1           An unreported move would be given  
2           different options. The unreported-move voter  
3           would be told where their new precinct is and  
4           told that's where they need to go or they would  
5           have the option of a central location. Both  
6           places would have their full ballot that they  
7           would be entitled to vote. If that voter  
8           determined -- decided they did not want to do  
9           either of those, they would be offered a  
10          provisional ballot and the items on the ballot  
11          would be counted for which they were eligible  
12          to vote.

13        Q. Okay. Thank you.

14                    When a voter comes in and isn't on the  
15                    poll book -- I'm sorry, let me start over.

16                    When an out-of-precinct voter came in  
17                    in past elections, how is it determined whether  
18                    that voter was registered?

19        A. Well, it would be that the precinct officials  
20                    in that polling location would have a poll book  
21                    of -- that would have the names of all  
22                    registered voters that are in that assigned  
23                    precinct, and this is for election day.

24        Q. Right. So when the out-of-precinct voter comes  
25                    in, how does the poll worker figure out if it's

1 someone who's not registered or someone who's a  
2 registered out-of-precinct voter?

3 A. Well, if they're not on the poll book and they  
4 say that they are registered, the precinct  
5 official can verify that information either  
6 through -- some of them have access to our  
7 voter look-up so they can see that that person  
8 is a registered voter or they can contact the  
9 county board of election to ensure that the  
10 person is registered and to find out where in  
11 fact their correct polling location is.

12 Q. Okay. All right. I'd like to shift gears a  
13 little bit and ask you some questions about --  
14 some more general questions about the State  
15 Board.

16 You talked a little bit earlier today  
17 about the staff members that you interact with  
18 regularly. Do you interact regularly with the  
19 board members as well?

20 A. Yes. I mean, if it's in connection with a  
21 board meeting or something that may be on the  
22 agenda, they will call and, yes, I would say I  
23 interact with them fairly frequently.

24 Q. What -- and how is the executive director  
25 appointed?

1 A. The executive director is appointed by the  
2 five-member board.

3 Q. And so in the event that the board was unhappy  
4 with an executive director, would the board  
5 have the authority to remove that person?

6 A. For cause, yes.

7 Q. What does that mean exactly? What does "cause"  
8 mean?

9 A. They would have to -- they would have to -- the  
10 same cause that any other state employee would  
11 have to be terminated for, they would have to  
12 have that same amount of cause to terminate me  
13 during the four-year appointment.

14 Q. So are there -- are there subjects in which the  
15 board members provide direction to you?

16 A. I'm sorry.

17 Q. Are there any matters that you're making  
18 decisions about to which you specifically  
19 answer to the members of the board?

20 A. Those things in the statutes require a State  
21 Board decision would be things that I would  
22 take directly to them for their consideration.

23 For example, non-unanimous one-stop  
24 plans, that's a decision that I  
25 administratively cannot make. The State Board

1 has to make that decision.

2 Q. Are there any other activities that fall into  
3 the category of election support that are State  
4 Board decisions?

5 MR. FARR: Objection to the form. I  
6 don't know what election support means, but you  
7 can answer the question.

8 THE WITNESS: Well, I would say a  
9 reduction -- a request for a reduction in  
10 hours, those types of decisions, they by  
11 statute require a unanimous decision by the  
12 State Board, so they by statute are required.  
13 That's another election support type function  
14 that would need State Board approval.

15 BY MR. COOPER:

16 Q. When you issue a numbered memo, is that  
17 something that the board members approve?

18 A. No.

19 Q. Are they aware of it?

20 A. They -- not always. They may -- they may  
21 not -- they're not copied on every numbered  
22 memo that goes out, but they certainly are  
23 available for them.

24 Q. And if an executive director ever issued a  
25 numbered memo that the board members disagreed

1 with, what recourse would they have?

2 A. Well, I feel certain that if the State Board  
3 member disagreed with a numbered memo, they  
4 could certainly call a meeting and take that  
5 matter up and issue a directive to me based on  
6 that.

7 Q. To change the memo?

8 A. To change that based on the State Board's  
9 decision.

10 Q. And is that the case for other documents issued  
11 by the board as well, things such as reports,  
12 other reports or memos that are publicly  
13 released by the State Board, would the same  
14 policy apply to those?

15 A. I mean, I am not aware in the past of an  
16 instance where that has happened, but I do in  
17 fact believe that the State Board has the  
18 authority if there was anything that -- any  
19 directive that goes out from our office that  
20 they do not agree with that they have the  
21 ability to come together and address that.

22 Q. Okay. And so that's -- and I guess I'm asking  
23 not just about directives to the counties or  
24 other agencies but also reports or memos that  
25 are more analytical in nature.

1 A. Sure, in any documentation that goes from our  
2 office I think the State Board has the  
3 authority to weigh in on those and provide  
4 direction.

5 Q. Let me just ask you, a moment ago I asked you a  
6 question about election support which I  
7 didn't -- a term I didn't define. I was  
8 intending to refer to the activities of the  
9 group that you described as your election  
10 support group earlier today.

11 A. That's what I thought you meant.

12 Q. Okay. Good. Thanks.

13 All right. I have some questions about  
14 the county boards, your structure with the  
15 county boards as well. So I think you've  
16 described numbered memos as directives to the  
17 counties; is that right?

18 A. Yes.

19 Q. Are the counties legally obligated to follow  
20 your directives?

21 A. I believe that the general statutes require  
22 that the counties shall administer elections  
23 based on directives provided by the State Board  
24 of elections. I think there was actually  
25 statutory authority that requires them to do

1           that.

2           Q.   So if a -- and I understand this may not happen  
3           very often, but if a county didn't do what you  
4           were telling them to do, what recourse would  
5           you have?

6           A.   I think recourse we would have is we would have  
7           the ability or I would have the ability to  
8           bring that county board before the State Board.  
9           The State Board, by statute, has the authority  
10          to remove a county board member for cause, and  
11          not following a directive of the State Board of  
12          Elections may be cause that they would use to  
13          remove a board member.

14          Q.   Does that go for a county election director as  
15          well?

16          A.   Well, a county election director is appointed  
17          by the three-member board, and the executive  
18          director -- at this point, I would have the  
19          authority to petition to remove a director if  
20          there was cause to do so.

21          Q.   You would have the authority to petition the  
22          State Board for removal?

23          A.   Yes. I can -- if a county board would like to  
24          terminate their director, they must petition me  
25          to do that and then I would render a decision.

1 The State Board would get the opportunity to  
2 weigh in on that if they didn't agree with my  
3 decision, but if the county board did not ask  
4 for a director to be terminated and I made the  
5 determination that that director should be  
6 terminated for cause, I would have to petition  
7 the State Board to do that.

8 Q. You've discussed one-stop voting plans in  
9 certain circumstances need to be submitted to  
10 you for approval --

11 A. Right.

12 Q. -- "you" being the State Board. Are there  
13 other matters that the counties are required to  
14 submit to the State Board for approval?

15 A. Yes. If a -- if a county wishes to change  
16 precinct lines, they want to combine precincts,  
17 they have to get approval from our office to do  
18 that. Any time that they -- if they want to  
19 have a polling place that's outside of their  
20 precinct, they have to seek approval for  
21 actions such as that.

22 Sometimes that occurs if there's not  
23 adequate places within a precinct, they have to  
24 get permission. For most things that involve  
25 the precincts and the precinct lines, they can

1 change a polling place within a precinct  
2 without the approval of the State Board as long  
3 as that polling place is -- is accessible and  
4 meets those -- those standards.

5 Q. What procedure is followed, then, if a county  
6 wants to change its precinct lines?

7 A. Then the county -- local county board would  
8 have to take that matter up. They would pass a  
9 resolution that would define how they wanted to  
10 change that -- those precinct lines and they  
11 would submit that to our office for approval.

12 Q. Is there -- are there dates by which they would  
13 have to do that, are there deadlines?

14 A. There are dates from a practical standpoint of  
15 being able to provide notice before an election  
16 to the people that are affected by that change.

17 So we do -- we require that the  
18 deadlines be that they -- they would have  
19 enough time to meet those notice deadlines.

20 Q. And what are the notice deadlines?

21 A. Let me see if I can get this right. I believe  
22 that they have -- with a precinct change, and I  
23 believe they have within 30 days they have to  
24 provide notice of an election or when the --  
25 from election day precinct change they would

1           have 30 days from that to provide notice to the  
2           people that are affected by the change.

3           Q.   And is that a mailing they would have to send  
4           out?

5           A.   Yes, and it's a mailing that's already  
6           generated from our statewide system.

7           Q.   And so how much time would you need to review  
8           and approve a proposal?

9           A.   Generally when those come in, we have staff  
10          members that are specifically assigned to meet  
11          and review that, provide whatever information  
12          is needed.  If there are concerns or there are  
13          not concerns, there's usually a very, very  
14          quick turnaround with those types of requests.

15          Q.   So -- but you don't have a definite -- there's  
16          no specific date that you've communicated to  
17          counties by which they have to submit that?

18          A.   I am sure in the past there have been dates.  I  
19          don't think there's a statutory deadline for  
20          that.  Those have been administrative dates  
21          that have been provided.

22                         And we do try to set administrative  
23          dates so that we ensure that people will get  
24          that information into us so they don't miss  
25          deadlines, but those are administrative dates,

1 and I think we actually did set a date with  
2 these elections as well just as a guideline,  
3 but it was not a statutory deadline.

4 Q. Let me ask you to pull out Exhibit 16. We  
5 talked about this document earlier, but let me  
6 just state again for the record, this was a  
7 document that was produced by the defendants in  
8 response to the plaintiffs' document requests.

9 It starts on the page with the Bates  
10 number ending in 47867. And you talked earlier  
11 about -- you talked earlier about Attachment G,  
12 and I am actually going to put this aside for  
13 the moment. I apologize.

14 A. Okay.

15 Q. If you could pull Exhibit 17, which I'll note  
16 for the record was also produced by the  
17 defendants in response to our document request.

18 The first page Bates number ends in  
19 52603, and I want to ask you about page 3 which  
20 Bates number ends in 52605. This is -- let me  
21 confirm that this is -- can you confirm this is  
22 a memorandum that was sent on the State Board's  
23 letterhead, released on the State Board  
24 letterhead?

25 A. Yes.

1 Q. And on page 3 there's some data regarding the  
2 first week of early voting; is that correct?

3 A. Yes.

4 Q. Could you just describe briefly what this data  
5 is?

6 A. This is data that is taken from our statewide  
7 information system that provides turnout  
8 numbers for the first week of early voting in  
9 2008 and 2010, and I assume that this is for a  
10 general election. I'm not sure.

11 Q. And it looks like it's broken --

12 A. Yes. I'm sorry, it is.

13 Q. This is for the general election --

14 A. General election.

15 Q. -- from 2008 and the general election from  
16 2010?

17 A. Yes.

18 Q. And the memo is dated May 18, 2011, I see.

19 A. Yes.

20 Q. And it looks like the data -- looking at the  
21 table at the top of page 3, it looks like it's  
22 broken down into several categories.

23 A. Yes.

24 Q. Could you just explain what those are for the  
25 record?

1 A. We have the categories of gender and then party  
2 affiliation and then race.

3 Q. And so this was gathered from SEIMS; is that  
4 right?

5 A. Yes.

6 Q. And that's your State Election Information  
7 Management System?

8 A. You've got it, yes.

9 Q. Are there any other -- has there been any other  
10 analysis of this data that has been pulled from  
11 SEIMS using these categories?

12 A. I'm sure that there's probably lots of data on  
13 our FTP site that has pulled this and more  
14 categories of data. In fact, I'm pretty sure  
15 all the early voting, all this information is  
16 out there probably for the '-8, '10 and '12  
17 elections.

18 Q. Do you put that data out as a matter of course?

19 A. Usually it is put out there if the public makes  
20 a request. Somebody in the public makes a  
21 request, that's usually how we provide the  
22 request is out on our FTP site. Many of the  
23 things that are out there are because somebody  
24 has made the request.

25 Q. Do you know of any requests that were made

1           about early voting data broken out in these  
2           categories?

3           A. Specifically?

4           Q. Yes.

5           A. Other than what would be work product. I mean,  
6           I don't know specific -- the specific requests  
7           do not usually come to me, so there are lots of  
8           public requests that people asking for this  
9           type of data broken down in all kinds of  
10          different ways and that information would not  
11          come to me. We would just fill that request  
12          and put it out on our FTP site.

13          Q. So how -- and I just would remind you you are  
14          the -- your agency's representative in this  
15          deposition.

16          A. Sure.

17          Q. So I want to make it clear that I'm asking as a  
18          representative of the agency. If you don't  
19          know, that's okay, but I want to make that  
20          clear that that's my question.

21          A. Sure.

22          Q. So you don't know of specific requests?

23          A. I don't know. I know that we track requests so  
24          that there are -- if people have made requests,  
25          we should have -- there probably is a list of

1 requests that have been made if they come to  
2 our office.

3 Q. How would we go about finding out if there is  
4 such a list? How would you go about finding  
5 out if there was such a list?

6 A. Generally most data requests either come to  
7 Marc Burriss or they come to our -- our e-mail.  
8 People will e-mail that. And we have a staff  
9 member, Jackie Blasky, usually fills most of  
10 these data requests that ensures they're put  
11 out on the FTP site. That's who I would check  
12 with.

13 Q. So again, you're not aware of any requests?

14 A. I'm not aware of any specific request for --  
15 other than those that may be part of attorney  
16 work product. They might -- the attorneys may  
17 have asked for this, but if you're talking  
18 about the public asking for that, I'm not aware  
19 of a specific request.

20 Q. Apart from anything that was asked for because  
21 of this litigation, are you aware of any  
22 specific requests for this type of data?

23 A. I am not.

24 Q. Okay. Shifting gears a little bit, I'd like to  
25 ask you some questions about same-day

1 registration.

2 A. Sure.

3 Q. I understand that same-day registration was  
4 first authorized in North Carolina in 2007.

5 A. Yes.

6 Q. And then it was repealed last year?

7 A. Yes.

8 Q. So my questions relate to that period when it  
9 was in effect.

10 A. Okay.

11 Q. And I'm wondering if you could walk me through  
12 the procedures that were followed when an  
13 individual wanted to use the same-day  
14 registration procedure.

15 A. Sure. If an individual presented during the  
16 early voting time for that election and they  
17 stated that they were not registered to vote,  
18 they would be offered a voter registration  
19 application at that time, and then they would  
20 have to also provide -- they would have to  
21 provide some documentation to prove their  
22 residency, and that information would be  
23 checked by the precinct official. And if all  
24 that information was provided, they would be  
25 allowed to vote at that same time.

1 Q. So what exactly would the precinct official  
2 check for? I'm sorry.

3 When you say precinct official, is that  
4 the official --

5 A. The one-stop worker. Excuse me. The one-stop  
6 worker.

7 Q. What exactly would that person check for?

8 A. They're going to make sure that the voter  
9 registration application is complete and that  
10 it's signed, and then they are going to make  
11 sure that they review a document that would  
12 be -- that would be needed to prove the  
13 residency for that person. A HAVA document is  
14 what we call it.

15 Q. A HAVA document?

16 A. Yes.

17 Q. Is there -- can you explain what documents fall  
18 under that category?

19 A. There is a list of documents that are -- that  
20 precinct officials are allowed to use. A  
21 person could present a photo ID, a utility  
22 bill. There are various documents on that  
23 list.

24 Q. All right. Let me pull -- I'm going to ask the  
25 reporter to mark as Exhibit 38, I think we're

1 up to.

2 THE REPORTER: Yes.

3 (WHEREUPON, Plaintiffs' Exhibit 38 was  
4 marked for identification.)

5 BY MR. COOPER:

6 Q. Have you seen this document before?

7 A. I do believe I have seen this document.

8 Q. Could you describe what it is?

9 A. It is the Proof of Residence Guidelines that  
10 would have been provided to directors from our  
11 former executive director.

12 Q. And is this numbered memo 2012-20?

13 A. Yes, it is.

14 Q. And can you explain what's on the second page  
15 of the document which -- I'm sorry, it would be  
16 the third page which has the Bates number  
17 ending in 75171.

18 A. Right. It provides the requirements that when  
19 someone shows up as a first-time voter or a  
20 same-day registrant what documentation they  
21 would have to provide to the one-stop worker or  
22 precinct official when voting.

23 Q. Okay. So once the voter comes in, presents a  
24 document and fills out the application, what  
25 procedures is the county -- was the county

1 required to follow after that?

2 A. After they've shown the documents here?

3 Q. Yes.

4 A. Then they are issued -- based on where their  
5 address is, they would be provided the  
6 appropriate ballot for that individual and be  
7 allowed to vote.

8 Q. Okay. And what else was the county required to  
9 do after that?

10 A. After the person votes?

11 Q. Was there a verification process that the  
12 county was required to follow?

13 A. The county -- after the --

14 Q. So the voter comes in --

15 A. Right.

16 Q. -- at the one-stop site.

17 A. Right.

18 Q. Submits the application, shows proof of  
19 residency?

20 A. Yes.

21 Q. Votes a one-stop ballot?

22 A. Yes.

23 Q. What other procedures to carry out the same-day  
24 registration were required?

25 A. Sure. Sorry. After the person votes, then it

1 would be the county board of elections then  
2 to -- that voter would go through the  
3 verification process. So within two days they  
4 would mail a verification to the individual  
5 that filled out the voter registration form in  
6 order to verify their registration as any other  
7 registered voter.

8 Q. Can you explain that process to me?

9 A. The verification process?

10 Q. Yes, please.

11 A. The verification process is when someone  
12 registers to vote an initial mailing, a  
13 verification mailing is mailed, and that really  
14 is the voter registration card. So a voter  
15 registration card is mailed, non-forwardable,  
16 to the person's mailing address.

17 If that card is not returned within  
18 15 days -- that's sort of the time period  
19 that's set in our system -- then that voter  
20 becomes verified and they are a registered  
21 voter.

22 If that voter -- if within that 15 days  
23 we receive that verification mailing back as  
24 undeliverable, or any other time past that, we  
25 would then be prompted to send a second

1 verification mailing to that voter. The same  
2 time period goes. If that does not come back  
3 undeliverable, then that voter then would be  
4 considered a verified registered voter.

5 If that voter -- that second mailing  
6 comes back and the voter has not voted yet, so  
7 are we -- if we're talking about a same-day  
8 registrant, if that comes back before the  
9 election day and that person could be denied  
10 because they would not -- they would have  
11 failed mail verification.

12 However, if that person had voted, then  
13 that person could not be denied and that person  
14 then would go and get a -- receive another  
15 mailing which would be also a verification  
16 mailing that -- if it comes back undeliverable,  
17 they would get another mailing, a confirmation  
18 mailing. If that confirmation mailing is not  
19 returned, then that voter would become  
20 inactive.

21 Q. So let me make sure I understand. If a second  
22 verification comes back undeliverable, the  
23 voter is denied?

24 A. If the voter has not -- if we're past the vote  
25 counting, we're talking if someone votes

1 one-stop, it's during the absentee period. So  
2 if that ballot has not been approved and it  
3 comes back prior to that, they could be denied.

4 However, if it doesn't come back prior  
5 to that, they cannot be denied because they  
6 have voted.

7 Q. So what does it mean that the ballot's  
8 approved? What's that date?

9 A. The absentee meeting? It could be the next  
10 absentee meeting. So there's lots of absentee  
11 meetings that go on prior to the election day.

12 If it's approved any time during that  
13 period, then that person's ballot, then they  
14 would be considered someone who has cast a  
15 ballot and voted and therefore could not be  
16 denied.

17 Q. Does it matter if the card comes back before  
18 the canvas?

19 A. If it comes back -- you mean if it comes back  
20 undeliverable for the canvas?

21 Q. Right.

22 A. That probably could go through a challenge  
23 process. If it had already been approved and  
24 counted, then it would be subject to a  
25 challenge.

1 Q. What does that mean?

2 A. A challenge could challenge that that person in  
3 fact is not a registered voter.

4 Q. So the county could in fact deny that voter?

5 A. Well, they could determine that they are not --  
6 they would not be -- they would not be denied,  
7 that they could be -- they'd be subject to the  
8 removal hearing and then that's how they would  
9 be dealt with.

10 It wouldn't be denial of a  
11 registration. It would be determined that  
12 person was not a registered voter based on some  
13 other residency or the reason the person was  
14 challenging not by virtue of the fact they  
15 failed mail verification but by the fact the  
16 person doesn't reside there.

17 Q. So I think you made a distinction earlier  
18 between same-day registrant and regular  
19 registrants. Can you explain the difference?

20 A. Yes. Someone who is not registered same day  
21 and they're registering outside of the one-stop  
22 period, or when the books are open, that person  
23 would also get a verification mailing. And if  
24 that -- we would go through that same process.

25 If it's not returned undeliverable,

1 they're verified. If they get a second  
2 mailing -- if it's returned, they get the  
3 second mailing. If it's returned  
4 undeliverable, they're denied. That's the end  
5 of the process for someone outside of the  
6 same-day registration period.

7 The same-day registration period is  
8 different because that voter has now voted and  
9 they cannot be denied.

10 Q. So at what point -- for someone registering  
11 using the regular process, at what point can  
12 that person vote? What has to be completed for  
13 that person to be able to cast a vote?

14 A. If that person has registered and the board of  
15 elections has made a tentative determination  
16 that that person is a registered voter, meaning  
17 that they reside at the appropriate address  
18 that would be in the jurisdiction, they're of  
19 proper age, they're not convicted of a felony,  
20 they're a citizen, they would be allowed to  
21 vote.

22 Q. So the mail verification process that you  
23 described, does that have to be completed in  
24 order for that person to cast a ballot?

25 A. No. No.

1 Q. And when you described the challenge process a  
2 moment ago, just to make it clear, if the  
3 challenge -- if the voter is successfully  
4 challenged, then that person's vote is not  
5 counted?

6 A. If they're successfully challenged, yes. And  
7 it's based on reasons that somebody could be  
8 challenged. It would be due -- they would have  
9 to prove that they do not reside where they  
10 would be eligible to vote in that particular  
11 election.

12 Q. And is two undeliverable verification cards  
13 proof that the person does not reside at the  
14 address on the card?

15 A. I think someone would have to challenge and  
16 provide more information probably than that.  
17 That is -- a voter challenge is subject to the  
18 jurisdiction of the county board of elections.

19 Q. So different counties might make different  
20 decisions?

21 A. They should base it on whether or not there is  
22 evidence that someone does not reside there, so  
23 that would -- that is the basis for a challenge  
24 to be sustained.

25 Q. Let's return to the same-day registration

1 process that the county follows.

2 So we have the application, the proof  
3 of residence, the mail verification. I  
4 understand there's also an electronic  
5 verification process.

6 A. Validation with DMV. Is that what you're --

7 Q. I think so.

8 A. Right. With that information we also validate  
9 either the driver's license or the last four of  
10 the social with DMV, which is done on a nightly  
11 basis.

12 Q. And what happens if that validation process  
13 isn't successful?

14 A. Then that voter would sort of go into an  
15 incomplete status where the county board of  
16 elections would try to get additional  
17 information to ensure that that person  
18 validates. And so that sort of goes -- it's  
19 sort of an administrative queue that they go  
20 into.

21 Q. What if the county determined that there was a  
22 problem with the registration?

23 A. Are we talking about during the same-day  
24 registration period?

25 Q. Yes. Yes.

1 A. If they determined after the person has voted  
2 same day that there was a problem within that,  
3 they would try to correct it and then they  
4 would still -- they would still go through the  
5 same process but they would determine if  
6 there's any information -- your validation is  
7 either like on a driver's license or same for a  
8 social, not everybody has a driver's license,  
9 so that's not going to keep somebody from not  
10 being a registered voter, but if there's some  
11 problem in the validation, they try to work  
12 that out with the voter.

13 Q. So if the -- supposing there's a voter  
14 registration form, same-day voter registration  
15 form and the driver's license number comes up  
16 as associated with someone with a different  
17 name, what's the procedure?

18 A. I would need to look specifically. That's  
19 probably a Marc Burris question of what the  
20 specific procedure in SEIMS.

21 SEIMS would notify the county of the --  
22 of the issue or the conflict and then they  
23 would provide them ways to address the  
24 conflict.

25 Q. And if the person who filled out the

1 application was determined to be ineligible,  
2 then what would happen?

3 A. If the person that had -- has voted and has  
4 same-day registered, if the determination is  
5 they're an ineligible voter, it depends on  
6 where we are in the process or if we are -- as  
7 I said, there are absentee ballots. So that  
8 would be a decision that the local county  
9 board -- the director would take that before  
10 the county board to determine the voter's  
11 eligibility.

12 Q. So I think you said this validation process  
13 happens quickly, correct?

14 MR. FARR: Objection to the form.

15 BY MR. COOPER:

16 Q. When does the validation process take place?

17 A. Well, what happens is the county board has to  
18 process the application, and generally that --  
19 with same-day registration, I believe they are  
20 supposed to do that quickly, like in two days.  
21 I think that is the statutory time at which  
22 they're supposed to process.

23 Processing the application, putting the  
24 information of the voter registration form into  
25 our statewide information system, that system

1 then works in coordination overnight with DMV  
2 where validations take place.

3 I am not exactly sure how the nuts and  
4 bolts of how that validation happens between  
5 SBE and DMV, but it happens on a nightly basis,  
6 it happens within the system to validate.

7 Q. So what I'm wondering is if the validation  
8 process indicates there's a problem with this  
9 voter registration application and the county  
10 board concludes that there was a problem, what  
11 can the county board do about it?

12 A. Well, once again, it would be depending on what  
13 the problem is. Was it a data error? I mean,  
14 data entry error, is that what caused the  
15 conflict? If they determine that there was a  
16 problem, I think it would be a matter that the  
17 local county board would have to address if  
18 it's a same-day registrant.

19 Q. What are their options? How would they address  
20 it?

21 A. Well, it depends on what the conflict. If the  
22 person is not eligible for some reason, is it  
23 because they find out they're not a citizen?  
24 If that's the reason that they do, then I think  
25 because it's a one-stop ballot, it goes through

1 the challenge process because they voted a  
2 ballot. I think that's the advice that our  
3 agency has provided that when that happens and  
4 if there was some sort of reason to believe an  
5 individual is not eligible to vote and has  
6 casted a ballot and it's during this time  
7 period, that the proper way to deal with it is  
8 a challenge process.

9 Q. And if it's substantiated during the challenge  
10 process that the person isn't eligible, what  
11 happens?

12 A. Their vote would not be counted.

13 Q. So let me go back to regular registration and  
14 ask again about that.

15 Does the electronic validation that  
16 you've described for same-day, is that done for  
17 regular registration too?

18 A. Yes. Yes.

19 Q. And is the same process followed if there are  
20 problems with the registration?

21 A. Well, I think the problems that you might  
22 encounter when it's not before the person has  
23 voted is that -- I mean, still that person, I  
24 guess, could be challenged for whatever reason  
25 if there was a reason to do that.

1                   But I know that as a matter of what  
2 happens within SEIMS is that these voters that  
3 have some sort of problem in the validation  
4 process go into what is called the incomplete  
5 queue, and it's the job of the county board of  
6 elections to remedy what the problems with the  
7 validation would be and try to work those out,  
8 and that's generally what they try to do is  
9 make a determination that they can work that  
10 out so then they could -- so that voter could  
11 then proceed on to active status.

12       Q.   So what happens if a voter in the incomplete  
13 queue shows up to vote during the one-stop  
14 period?

15       A.   I mean, it would depend on what the issue was,  
16 if that person is on the registration record or  
17 not. It very well may be that whatever the  
18 problem is, they are, but if they're not, they  
19 would still be allowed to vote, they would vote  
20 a provisional ballot, and then it would be up  
21 to the county board of elections during the  
22 canvas process to determine whether or not that  
23 voter was eligible to vote.

24       Q.   So how does that differ from the challenge  
25 process that you described before?

1 A. Well, because with the challenge process is  
2 that the individual who has presented same-day  
3 registration, they're not on the books, and  
4 their registration -- because they have  
5 provided all of the information there, they are  
6 provided a ballot.

7 So that is different from the person  
8 that has not registered during the same-day  
9 registration where the -- they have gone  
10 through the validation process before they have  
11 ever gotten a ballot.

12 So these two voters are in very  
13 different situations. So that's why the voter  
14 that has not -- that has gone through these  
15 processes prior to the same-day registration  
16 would not be -- might not be on the poll book,  
17 and therefore that's why they would vote the  
18 provisional ballot.

19 Q. But they also might be on the poll book?

20 A. They could be. It depends on what the issue  
21 was.

22 Q. So there could be circumstances where a voter  
23 would -- let me rephrase that.

24 There could be circumstances where  
25 someone who registered using the regular

1 registration process could vote a ballot at a  
2 one-stop site before the validation process was  
3 complete?

4 A. That would seem unlikely that they could since  
5 the validation happens so soon after the  
6 processing, but could they vote -- could they  
7 vote before an incomplete queue is worked out,  
8 it's possible.

9 The county boards of elections are  
10 told, when the registration deadline occurs,  
11 they are to process those applications as  
12 quickly as possible because they have to be  
13 able to print the poll book, they have to get  
14 all that information together and go through  
15 that process. So more than likely they are  
16 trying to work out any problems before that  
17 poll book happens.

18 Could there be a case that it does  
19 happen, it could if that county had not  
20 processed those individuals and worked out any  
21 problems in the incomplete queue.

22 Q. Are the poll books printed for the one-stop  
23 sites or are those poll books printed for  
24 election day?

25 A. Well, there are poll books for both. I mean,

1           there's poll -- there has to be -- if you have  
2           additional sites, you have to have poll books  
3           for the whole county for the one-stop sites,  
4           and then on election day you also have poll  
5           books printed which have the voters that have  
6           not previously voted during that time period.

7           Q. So in that occasion where the validation  
8           process wasn't completed, it is possible for  
9           someone who used that regular registration  
10          process to be given and vote a one-stop ballot;  
11          is that correct?

12          A. I would -- I'm not sure on that question. I  
13          don't -- your question is if someone has voted  
14          outside of the one -- the same-day -- they have  
15          registered outside of the same-day  
16          registration, has that voter gone through all  
17          of the -- been processed and gone through the  
18          validation process such that they would have  
19          completed that before they voted. Is that a  
20          fair count of your question?

21          Q. That's my question, yes. And it sounds like  
22          you're saying probably but maybe not.

23          A. I'm saying probably. I'm not sure I can  
24          account for every single case of what may have  
25          happened with a particular voter that might be

1 in that situation, so I'd hate to definitively  
2 say yes or no on that.

3 Q. Okay. So if that case did happen, would that  
4 person be in the same position as someone who  
5 used the same-day registration process?

6 A. When you say the same position --

7 Q. Would the same -- I guess I'm asking whether if  
8 you have one person who used regular  
9 registration and voted a one-stop ballot and  
10 you have another person who used same-day  
11 registration and voted a one-stop ballot and  
12 both of those voters had a problem with the  
13 validation process, are the procedures that are  
14 available to the county the same for both  
15 voters?

16 MR. FARR: I am going to object to the  
17 form of the question because every situation  
18 could have a different problem, and I don't  
19 really know how the witness can answer that  
20 question, but she certainly is free to do so if  
21 you can do so.

22 BY MR. COOPER:

23 Q. If you can answer to the best of your ability,  
24 please.

25 A. I understand, and that is sort of the problem

1 is that there are so many different scenarios  
2 that there could be.

3 What I can say was that someone who  
4 registered during the registration period --  
5 and you're talking -- you're not talking about  
6 mail verification.

7 Are you talking about simply the  
8 validation that goes on with DMV or are we  
9 talking about any part of the entire process?

10 Q. I would actually like to ask the question for  
11 both, the electronics verification and the mail  
12 verification.

13 A. With the electronic verification, I'm not sure  
14 exactly what those issues would be that would  
15 put someone -- there could be various things  
16 that put that person into that incomplete  
17 queue. And, yes, that person may or may not be  
18 on the poll book based on why they are in that  
19 incomplete queue. That is where those voters  
20 go, and that is where the county board is  
21 trying to figure out what it is and why they  
22 didn't validate.

23 So if they don't appear on the poll  
24 book -- that is your question -- are they  
25 treated -- then if they come in and they say

1 "I'm registered," they would be provided a  
2 provisional ballot.

3 Q. So my question is for a regular registrant who  
4 does appear on the poll book and therefore  
5 casts a regular one-stop ballot.

6 A. Right.

7 Q. I'm asking if you can compare a person who does  
8 that with a person who uses same-day  
9 registration and casts a one-stop ballot.

10 A. And the issue is we're just talking about  
11 electronic validation.

12 Q. Yes.

13 A. Right. So if the person comes in same day,  
14 they register at that time and the person --  
15 the poll worker -- excuse me -- the one-stop  
16 worker determines that they are -- in fact they  
17 seem to meet all of the qualifications to be  
18 registered, that person is then given a ballot,  
19 they vote a regular ballot, a regular one-stop  
20 ballot.

21 Then the county board goes through the  
22 processing -- the process, and if there are  
23 problems during that time -- and you're  
24 speaking specifically to electronic validation,  
25 correct?

1 Q. Correct.

2 A. Then they would try to work that out in the  
3 same way they would with the time constraints  
4 that they have. That's going to be the issue  
5 is that working the incomplete queue during a  
6 busy election is not -- you don't have the same  
7 amount of time that you would to work the  
8 incomplete queue outside of that time period.

9 But attempts would be made to find  
10 out -- to work out whatever the validation  
11 issue is for both voters. It's just the time  
12 constraints would be more on the applicant  
13 during the same-day registration period. The  
14 process would be the same.

15 Q. Okay. Let me ask a similar question, then, for  
16 the mail verifications.

17 So you have a regular registrant who's  
18 in the poll book, casts a one-stop ballot, and  
19 you have a same-day registrant who casts a  
20 one-stop ballot. How does the mail  
21 verification process differ for those two  
22 individuals?

23 A. Yes. The applicant who registers before the  
24 voter registration deadline goes through the  
25 mail registration process. If they are

1 verified -- excuse me. If they are not  
2 verified, meaning they received the two  
3 mailings usually 15 days apart, then they are  
4 denied and they would not be eligible to cast a  
5 ballot.

6 The applicant that comes in for  
7 same-day registration, registers, casts a  
8 ballot during the one-stop time period, they go  
9 through the verification process. If their  
10 second verification mailing comes back  
11 undeliverable, they are not denied. They are  
12 then put into we call the existing voter  
13 category.

14 So they would go -- receive -- at this  
15 time they receive an additional verification  
16 mailing and then a confirmation mailing and  
17 then they are made inactive instead of denied.

18 Q. And so the regular registration deadline is  
19 25 days before an election, correct?

20 A. Yes.

21 Q. So someone could submit a registration  
22 application that day, 25 days before an  
23 election?

24 A. Yes.

25 Q. And then the county would have to print up its

1           one-stop poll books some number of days after  
2           that?

3           A. Right.

4           Q. Is the registrant going to be included in the  
5           poll book even if the verification process is  
6           incomplete?

7           A. Yes.

8                         MR. FARR: Which verification process,  
9           the mailing or the electronic?

10                        THE WITNESS: The mailing -- both.

11           BY MR. COOPER:

12           Q. So -- okay. I think I understand.

13                        I want to ask you about a document.  
14           Let's treat this as two different exhibits  
15           since they are not attached

16                        (WHEREUPON, Plaintiffs' Exhibits 39 and  
17           40 were marked for identification.)

18                        MR. FARR: So which one is 39 and 40?

19                        MR. COOPER: The e-mail is 39. And  
20           these documents were produced by the defendants  
21           in response to our document request.

22           BY MR. COOPER:

23           Q. Let's start with 39 which has Bates number  
24           ending in 16172.

25                        Can you confirm that this is -- appears

1 to be an e-mail sent to Don Wright from a  
2 member of your -- I'm sorry -- sent from Don  
3 Wright to Veronica DeGraffenreid?

4 A. Yes.

5 Q. And those are both members of your staff?

6 A. Yes.

7 Q. And if we can turn to Exhibit 40, which is an  
8 attachment to this e-mail, can you identify  
9 this document? Have you seen this document  
10 before?

11 A. I have seen at least versions of this document  
12 over the years, and we have had Administration  
13 of Voter Registration Policies and Procedures  
14 document like this for many years.

15 Q. And what is the function of this document?

16 A. It basically points out our policies and  
17 procedures for ensuring that we are  
18 implementing our voter registration in  
19 compliance with the NVRA and the North Carolina  
20 General Statutes.

21 Q. And you know when this document was last  
22 revised?

23 A. I don't.

24 Q. And I would note that the cover e-mail is dated  
25 March 2013.

1 A. Right.

2 Q. Do you have any reason to think that this is  
3 not the most up-to-date version?

4 MR. FARR: Could you read the whole  
5 document before you answer that question.

6 THE WITNESS: Sure.

7 BY MR. COOPER:

8 Q. Why don't I ask you about a specific section.  
9 Specifically I'm interested in the section that  
10 begins on Bates number page -- the Bates number  
11 ends in 16187.

12 A. Right.

13 Q. And do you see the section that's headed  
14 "Verification of Applications For Original  
15 Registration"?

16 A. Yes.

17 Q. And it looks like that section extends to the  
18 page ending in 189.

19 A. Yes.

20 Q. Can you tell me if this is -- reflects the  
21 Board's policies regarding mail verification?

22 A. Let me read it. I have not reviewed the entire  
23 document.

24 I do not believe that this is up to  
25 date. It's my understanding that -- first of

1 all, that the system is 15 days within the  
2 system that a person -- the first verification  
3 notice goes and then the system waits 15 days.  
4 If that person has not had something returned,  
5 they are considered verified. That's what we  
6 consider.

7 This talks about a ten-day period.

8 There's also -- it doesn't speak to same  
9 day -- I know that this has not been updated --  
10 I do not believe this has been updated since  
11 the change in the law. So I'm not sure when  
12 this -- in 2011 -- I mean '13, when this  
13 was -- the date on it, same-day registration  
14 was still allowed. This doesn't seem to deal  
15 with same-day registration.

16 Q. I understand that, and it doesn't purport to,  
17 it doesn't seem to me.

18 A. It doesn't purport to, correct.

19 Q. So dealing only with regular registration, are  
20 there any differences between what's in here  
21 and your current policy?

22 MR. FARR: As to the one section you  
23 asked her about?

24 MR. COOPER: Yes, only that.

25 THE WITNESS: What I would say, based

1 on our process -- and our new State Board has  
2 not made any changes to this process since I  
3 have been in this position -- is that my  
4 understanding is a tentative determination is  
5 made, the person's registration, based on the  
6 county board receiving that application and  
7 reviewing it and making a determination. The  
8 verification process then is 15 days.

9 I'm not sure where the 10 days is  
10 coming to, and that's something I would not  
11 want to speak to unless I know where that's  
12 coming from.

13 BY MR. COOPER:

14 Q. Do you see anything else in the document that  
15 you don't believe is accurate with respect to  
16 that section of the document?

17 A. I think the general process other than the  
18 10 days is accurate.

19 Q. Okay. And did the enactment of the same-day  
20 registration statute change the verification  
21 process for regular registrants?

22 A. For registrants that did not register during  
23 the same-day period?

24 Q. Yes.

25 A. No. No. That process would still be the same,

1           yes.

2           Q.   Okay.  And has the board done any analysis of  
3           the rate at which registration applications are  
4           not successfully verified?

5           A.   There have been reports that the office has  
6           done on mail verification.  I think Veronica  
7           DeGraffenreid did an analysis on the rate of  
8           return on the mail verification process.  So,  
9           yes, that's the analysis that I'm aware of.

10                       MR. COOPER:  Could you mark this,  
11           please.

12                               (WHEREUPON, Plaintiffs' Exhibit 41 was  
13           marked for identification.)

14           BY MR. COOPER:

15           Q.   So I've just handed you Exhibit 41.  Is this  
16           Ms. DeGraffenreid's analysis that you just  
17           described?

18           A.   Yes, it is.

19           Q.   What were her findings?

20           A.   Well, what her findings are -- and this is  
21           something that she states.  I believe she does  
22           state in here is that this is a snapshot  
23           of -- and it's important to understand how the  
24           SEIMS system works in order to understand what  
25           this report actually means -- is that when

1 she's putting a report like this together,  
2 she's picking a date -- she picked a date,  
3 which for this was February 6, 2013, and so all  
4 the data that -- there's a couple dates. She  
5 uses February 6, 2013, and January 30th of  
6 2013, November 27th of 2012. I think those  
7 are -- and February -- those are the dates.

8 Understanding that this report is based  
9 on the data as it existed on those dates. And  
10 the way our statewide information system works  
11 is that whatever status that voter is in at  
12 that time, that is what would be pulled for  
13 this report.

14 Q. In this report, at the bottom, has the name  
15 NC State Board of Elections on it, correct?

16 A. Yes.

17 Q. And the date is February 11, 2013.

18 A. Yes.

19 Q. So does this accurately reflect conclusions of  
20 the NC State Board of Elections as of that  
21 date?

22 A. I think that the data in this report accurately  
23 reflected -- based on the dates that she pulled  
24 this information, I think the data is  
25 accurate -- the data is accurate for those

1 dates, yes.

2 Q. Are there any additional analyses of this data  
3 that the Board has conducted since this date?

4 A. Analysis of this data?

5 Q. Yes.

6 A. Well, what I would say is what we've looked  
7 at -- and Veronica has been part of that -- is  
8 looking at other dates because the point -- and  
9 she and I have discussed is that these terms  
10 mean -- if you are -- let's see.

11 If you are -- maybe you look into our  
12 system and it shows that you are unverified.  
13 Unverified might mean -- to you, you may think  
14 that person has never gone through the  
15 verification process. That's not necessarily  
16 true. It may be that that person received an  
17 administrative mailing. Maybe the county did a  
18 mailing and that that person has then been  
19 mailed a verification mailing, and because that  
20 hasn't had the opportunity to get to 15 days,  
21 that verification mailing hasn't come back or  
22 been processed.

23 That status of that voter at that time  
24 is going to say unverified even though that  
25 person has already been verified, they've gone

1 through the process, they've gone through the  
2 verification mailings. It's a status that  
3 SEIMS assigns it based on whatever is going on  
4 with that voter at that particular time.

5 And understanding that admin mailings,  
6 a voter sending in a change of their name,  
7 address, phone number, all of that may trigger  
8 a mailing and change these.

9 So I think what we have to understand  
10 is that what these terms may mean, they may not  
11 mean that it's in connection with that person's  
12 initial registration.

13 Q. So let me draw your attention to the table on  
14 the first page, and it looks like there's a  
15 heading that says "Registration Period."

16 A. Yes.

17 Q. And then there's a heading that says  
18 "Undeliverable Rate."

19 A. Yes.

20 Q. And so I think -- I think, if I understand  
21 correctly, this table shows the rate at which  
22 undeliverable -- notices came back  
23 undeliverable for each of these registration  
24 periods.

25 A. Once again, what it actually shows is when she

1 pulled the data and she's looking to see what  
2 the status of that voter is, if that person is  
3 verified, active verified, it is assumed for  
4 purposes, I believe, of this analysis that  
5 that -- they went through the verification  
6 process and that's the reason why they're in  
7 that current status.

8 Q. So for the last row of the table which  
9 corresponds to the dates October 18, 2012, to  
10 November 3rd, 2012 --

11 A. Yes.

12 Q. -- that's the 2012 general election one-stop  
13 period, right?

14 A. Uh-huh.

15 Q. So for registrations during that period  
16 reflected in this row, the counties were  
17 required to start the mail verification process  
18 within two business days, correct?

19 A. Correct.

20 Q. And the third row, 4/19/2012 to 5/5/2012, that  
21 corresponds to the 2012 primary one-stop  
22 period, correct?

23 A. Correct.

24 Q. So the same two-business-day requirement would  
25 apply to that period as well?

1 A. Yes.

2 Q. And so those two rows, the third row and the  
3 last row, are shaded here.

4 A. Yes.

5 Q. And so the undeliverable rates as of the date  
6 this data was pulled for the shaded rows are  
7 lower than for the other rows, correct?

8 A. Based on this chart, yes.

9 MR. COOPER: All right. I think it's  
10 time for a short break, say, ten minutes to  
11 bring us back at 2:30.

12 THE WITNESS: Sure.

13 THE VIDEOGRAPHER: Off record at 2:16.

14 (Brief Recess.)

15 THE VIDEOGRAPHER: On record at  
16 2:39 p.m.

17 THE WITNESS: Do you mind if I clarify  
18 two things?

19 BY MR. COOPER:

20 Q. Certainly.

21 A. This Exhibit 40 -- I should have recognized  
22 this when I looked at it. I do not think this  
23 is up to date. And our address -- first of  
24 all, we're not -- we don't reside at 506 North  
25 Harrington Street.

1                   And then on the second page, the person  
2                   to contact is a person who hasn't worked in our  
3                   agency for probably seven years.

4                   So I just wanted to clarify that this  
5                   document is probably that old.

6                   And the second thing I wanted to  
7                   clarify is the electronic -- the validation  
8                   process, I think I want to make sure I make it  
9                   clear that the validation process, since it is  
10                  a validation of identification, if a  
11                  registrant registers outside within the voter  
12                  registration time period and they provide their  
13                  last four social and driver's license and it  
14                  doesn't validate, they will go on the poll book  
15                  and they will have to present HAVA ID, some  
16                  sort of proof of identify when they vote.

17                  If a same-day registrant, they present  
18                  HAVA ID, they go through that same validation  
19                  process. If they don't validate, they can  
20                  try -- they will still try to get a correct  
21                  number because the number is not correct, but  
22                  if they don't, they're simply removed from the  
23                  record.

24                  Q. And their vote is not counted?

25                  A. Their vote is counted because they -- because

1 they have already satisfied the identification  
2 requirement by showing proof of identity.

3 So both the registrant that  
4 registers -- that registers to vote the normal  
5 time period, 25 days before, they provide a  
6 number that doesn't validate, maybe they get  
7 the driver's license number wrong, it doesn't  
8 validate, that voter is flagged on the poll  
9 book to have to show identification, some sort  
10 of HAVA ID. If they show that ID, their vote  
11 counts.

12 The same-day registrant, they as a  
13 matter of same day registering, they already  
14 have to show a HAVA ID, so they've satisfied  
15 that whether they validate or not.

16 Q. So when a same-day registrant shows the  
17 required proof of address, that satisfies the  
18 HAVA requirement, the HAVA ID requirement as  
19 well?

20 A. The proof of identity, yes, they've shown  
21 something that -- they've proven that --  
22 the driver's license and last four of social is  
23 proof of identity, so they have shown that by  
24 showing up and by showing a HAVA document  
25 already.

1 Q. And did you discuss these issues with anyone  
2 during the break?

3 A. I called Veronica DeGraffenreid during the  
4 break to clarify that issue with her, yes.

5 Q. And what about on the Exhibit 40, did you talk  
6 to anyone about that?

7 A. My counsel showed me the document and said "Is  
8 that your address," and they prompted me to  
9 look at it.

10 Q. Is there a more up-to-date document?

11 A. I don't know. I don't know if there is or not.  
12 This is not a document that I'm aware has been  
13 updated. I know it has existed probably as  
14 long as I have been at the agency, but I don't  
15 know how it's updated. I don't know that we  
16 necessarily update this document. When we --  
17 when we provide guidance, it's not necessarily  
18 through this document.

19 Q. So is there another document that sets out  
20 those verification procedures that we discussed  
21 earlier?

22 A. There could be numbered memos. There could  
23 be -- in the SEIMS help files I'm sure that  
24 those processes are documented as well. There  
25 are probably other places that they are.

1 Q. All right. Has the State Board ever conducted  
2 any analyses of the impact of same-day  
3 registration?

4 A. When you say the impact --

5 Q. Of who uses it, how many people use it.

6 A. I believe that the only thing that I'm aware of  
7 that the State Board has done were an analysis  
8 of -- that was also done by Veronica  
9 DeGraffenreid. It was an analysis of the  
10 number of people that used it, and it probably  
11 did have additional information on it about  
12 those people. That's the only analysis that  
13 I'm aware of that's been done.

14 MR. COOPER: Could you mark this,  
15 please.

16 (WHEREUPON, Plaintiffs' Exhibit 42 was  
17 marked for identification.)

18 BY MR. COOPER:

19 Q. So you have a document in front of you, a  
20 document that's been marked as 42. It's been  
21 produced by the defendants in this litigation.  
22 It has Bates number ending in 22907 on the  
23 front.

24 Do you recognize this document?

25 A. I have not seen this document.

1 Q. Can you confirm that this is a report of the  
2 State Board of Elections dated March 31, 2009?

3 A. It appears to be.

4 Q. And I wanted to direct your attention to page 3  
5 which has a Bates number ending in 22910. Do  
6 you see -- sorry, are you there?

7 A. I am.

8 Q. You see there's a section headed "Voter  
9 Satisfaction"?

10 A. Yes, I see that.

11 Q. And I wanted to ask you about the first two  
12 sentences in that paragraph. Could you just  
13 read those sentences for the record.

14 A. Sure.

15 "Voters express their satisfaction  
16 and gratitude that North Carolina had a  
17 process that afforded citizens with  
18 more opportunities to register and vote.  
19 More people were able to successfully  
20 vote because they had the chance to take  
21 care of registration issues during the  
22 one-stop voting periods."

23 Q. And so with respect to the second sentence, the  
24 statement that more people are able to  
25 successfully vote because of same-day

1 registration, is it safe to say that was the  
2 conclusion of the State Board as of the date of  
3 this report?

4 MR. PETERS: Objection. Clarity on  
5 what is meant by "the State Board."

6 THE WITNESS: It appears to be the  
7 opinion of at least Gary Bartlett and Veronica  
8 DeGraffenreid.

9 BY MR. COOPER:

10 Q. And let's turn back to the front page. The  
11 heading of this report appears to be  
12 "North Carolina State Board of Elections:  
13 Report on Same-Day Registration"; is that  
14 right?

15 A. That's what -- yes, that's what it indicates.

16 Q. So is it fair to conclude from that that this  
17 is a report from the State Board of Elections?

18 A. I do not know for what purpose this report was  
19 produced or for -- and to who it was produced  
20 for. So I don't know if it -- it appears to be  
21 prepared by the executive director and Veronica  
22 DeGraffenreid, I mean, certainly staff members  
23 of the State Board of Elections.

24 Q. Do you have any reason to believe that anything  
25 in this report is false?

1 A. I have not read the report.

2 Q. So you don't?

3 A. I've not read the report so I would not be able  
4 to say whether I know whether it's false or  
5 not.

6 Q. Do you know whether this was a report that was  
7 required to have been issued by statute?

8 A. I don't know.

9 MR. COOPER: Could you mark this,  
10 please.

11 (WHEREUPON, Plaintiffs' Exhibit 43 was  
12 marked for identification.)

13 BY MR. COOPER:

14 Q. You have been handed as Exhibit 42 --

15 THE REPORTER: 43.

16 BY MR. COOPER:

17 Q. Excuse me. Exhibit 43.

18 Do you recognize this document?

19 A. I have not seen this document. I recognize it  
20 to be House Bill 91.

21 Q. And is that the bill that authorized same-day  
22 registration for the first time?

23 A. Yes, I believe it is.

24 Q. And I want to direct your attention to  
25 Section 4, which is on the second page, Bates

1 number ending 22717. The last sentence states:

2 "The State Board shall report  
3 its findings no later than March 1, 2009,  
4 to the Joint Legislative Committee on  
5 Governmental Operations of the General  
6 Assembly."

7 Do you see where it says that?

8 A. Yes, I do.

9 Q. Is Exhibit 42 the report that we were just  
10 discussing? Is that the report that the State  
11 Board issued to satisfy this requirement?

12 A. It appears to be. It's 331, but it appears to  
13 be the same subject matter that was required  
14 for that committee.

15 Q. Okay.

16 (WHEREUPON, Plaintiffs' Exhibit 44 was  
17 marked for identification.)

18 BY MR. COOPER:

19 Q. You now have in front of you a document labeled  
20 Exhibit 41.

21 THE REPORTER: 44.

22 BY MR. COOPER:

23 Q. I'm sorry. 44. Do you recognize this  
24 document?

25 A. I do, I do recognize this document.

1 Q. What is it?

2 A. This was a summary of same-day registration for  
3 the 2010 general election that was compiled by  
4 Veronica DeGraffenreid.

5 Q. And was this issued by the State Board?

6 A. Yes. She -- I'm not sure the purpose that she  
7 did it for, but she did -- she did this on  
8 behalf of Gary Bartlett's request for her to  
9 put this together.

10 (WHEREUPON, Plaintiffs' Exhibit 45 was  
11 marked for identification.)

12 BY MR. COOPER:

13 Q. This is Exhibit 45. Do you recognize this  
14 document?

15 A. I do.

16 Q. Could you describe it, please?

17 A. It is an analysis of same-day registration for  
18 the 2012 primary and general elections, and it  
19 was a document also that was created by  
20 Veronica DeGraffenreid.

21 Q. And this appears to state at the top this is a  
22 report of the North Carolina State Board of  
23 Elections, correct?

24 A. Yes.

25 MR. PETERS: Objection to the

1           characterization.

2                       THE WITNESS: I believe that she did  
3           this at the request of Gary Bartlett.

4 BY MR. COOPER:

5 Q. Was this report published by the Board?

6 A. When you say published, I'm not sure how it was  
7           disseminated.

8 Q. Would it have been posted on your website?

9 A. Probably not. I'm not aware that it was.

10 Q. Why would it have been created?

11 A. I'm not sure why it was created.

12 Q. If a member of the public had requested  
13           analysis of same-day registration in 2012, is  
14           this the sort of analysis that might have been  
15           conducted?

16 A. It could have been. It could have been.

17 Q. And the fact that this says North Carolina  
18           State Board of Elections at the top, does that  
19           indicate anything to you?

20 A. What it says to me is this was a document that  
21           was prepared by staff in our agency.

22 Q. And does this document reflect the data that  
23           was collected as of the date on the document?

24 A. Yes, I believe so.

25 Q. All right. Let's go back to Exhibit 16. I

1 think it was one of the first you looked at at  
2 my request. And I'd like to ask you to look at  
3 Attachment B which begins with the Bates number  
4 ending in 47878.

5 A. Yes.

6 Q. And that goes through Bates number ending  
7 47883.

8 Is this a description of the State  
9 Board's list maintenance policies?

10 A. It appears to be, yes.

11 Q. And have you seen this portion of the document  
12 before?

13 A. Not before today.

14 Q. Okay. Can you review -- can you review this  
15 document and confirm for me that it correctly  
16 describes the State Board's list maintenance  
17 practices as of the date on the document?

18 A. Yes, I believe these are -- based on the data  
19 it's an accurate description of the list  
20 maintenance procedures our office has.

21 Q. I want to direct your attention to the first  
22 page of Attachment B. The first paragraph  
23 under that table, in the middle of the page  
24 there's a reference in that paragraph, the  
25 second line of that paragraph, to the phrase

1 "an exact match," "as long as the statewide  
2 voter registration database can determine an  
3 exact match voters are automatically removed."

4 I'm wondering if you can explain to me  
5 what an exact match is.

6 A. The way that it has been described to me is  
7 that if we're to remove somebody, they have to  
8 have an exact match on name and birth date and  
9 if there's a social, they have that.

10 If they do not have an exact match on  
11 the name -- and we're talking about -- then  
12 that voter would not be removed. It is an  
13 exact-match process.

14 Q. So if the vote -- let's clarify. Let me back  
15 up a step.

16 A. Sure.

17 Q. This section of the report is referring to  
18 voters that move between counties within the  
19 state, correct?

20 A. Yes.

21 Q. So when a voter -- when a voter moves between  
22 counties and goes to register in the new  
23 county, there's a process to search the  
24 database; is that correct?

25 A. That is correct.

1 Q. And do I understand correctly, if there's an  
2 exact match within the meaning of this  
3 paragraph, then the voter's old registration  
4 record is removed?

5 A. Correct.

6 Q. Okay. So is only name and date of birth enough  
7 for you to confirm that that's -- that that  
8 record should be removed?

9 A. One of the things that -- and this is also  
10 probably a better question for Marc Burris  
11 because we have had conversations about how  
12 this happens, and he has told me the challenges  
13 is that if someone registers with a slightly  
14 variation of their name, then they will not  
15 remove them.

16 So I believe that it is -- it has to be  
17 an exact match of the data that has been  
18 provided on their new registration, the  
19 identifying information on the previous  
20 registration.

21 Q. Okay. All right. Let me ask you -- so this  
22 document is dated March 11, 2013, correct?

23 A. Yes.

24 Q. Have there been any changes made to these  
25 practices since then?

1 A. I think we -- there -- we still -- all of these  
2 practices we still continue to do. We have  
3 done with the removals due to death. In  
4 addition to the processes that we receive on a  
5 monthly basis, we've done a 10-year audit  
6 because sometimes this information is put out  
7 for the county boards, and if someone dies in a  
8 different county, they may miss that.

9 So what we have done periodically --  
10 and this was the second time this has been  
11 done -- was get a -- for the past ten years all  
12 the deaths and then run that against our  
13 database, and if we had exact matches, then we  
14 administratively remove those dead voters as  
15 well.

16 We also have -- which was spoken to, I  
17 believe -- well, with -- we also use the  
18 Department of Transportation. DMV provides us  
19 information on deaths that are reported to  
20 their agency, and if we have, once again, exact  
21 matches, we can remove those through list  
22 maintenance, as part of our list maintenance.

23 We are now participating with the  
24 Interstate Crosscheck with Kansas, so we use  
25 that information as a basis to research,

1 determine if someone has moved from the state  
2 and should be removed. So those are additional  
3 things in addition to these that are already  
4 mentioned.

5 Q. So with regard to the 10-year death -- 10-year  
6 death audit -- is that what you call it?

7 A. That's what we call it.

8 Q. When was that done?

9 A. That was done in October of 2013.

10 Q. And you said that was the second time?

11 A. I think it was also done in 2012.

12 Q. And did that involve data -- which agencies did  
13 that involve?

14 A. DHHS.

15 Q. Do you do something similar with DMV as well?

16 A. We just started with DMV. They have that  
17 information as well. So we have just started  
18 getting that information from them and  
19 comparing it to our records on a -- I'm not  
20 sure if it's a night or weekly basis.

21 Q. So then the other thing you mentioned was the  
22 Interstate Crosscheck program.

23 A. Yes.

24 Q. That was authorized by H.B. 589, correct?

25 A. Yes.

1 Q. Did the State Board recommend that program at  
2 some point?

3 A. The State Board, no, not the actual members of  
4 the State Board, no, did not recommend that.

5 That had been one of the programs that  
6 had been reaching out to our office for  
7 apparently a couple of years. And the reason  
8 why we had not already participated in that, I  
9 was told, we didn't have the authorization to  
10 do based on the confidential information we  
11 would have to be turning over.

12 And so I made the decision, once we had  
13 that based on conversations with Marc Burris  
14 and Veronica DeGraffenreid, that this would  
15 probably be a good program for us to  
16 participate in based on the states that are  
17 involved in the crosscheck being  
18 South Carolina, Virginia, at the time we  
19 thought Florida as well, that would be --  
20 provide us -- it's a free program and we would  
21 have a benefit to use that data.

22 Q. And in terms of the statutory authorization, I  
23 wanted to ask you about Exhibit 16. On the  
24 fourth page, which has the Bates number ending  
25 in 47869 --

1 A. I'm sorry, what did you say that number was?

2 Q. The Bates number ends in 47869. And actually,  
3 for the record, could I just ask you to  
4 describe the section of the document that we're  
5 in, that I'm pointing you toward.

6 A. The letter from Gary Bartlett? This appears to  
7 be a letter addressed to the House Elections  
8 Committee and Appropriations Subcommittee on  
9 General Government.

10 Q. So let me point you to that page, the 47869  
11 page, and there's a bullet point that starts  
12 with double voting.

13 A. Okay.

14 Q. I wanted to ask you about the last sentence,  
15 which reads:

16 "It would be helpful if North  
17 Carolina could participate in  
18 consortium that would allow us to  
19 share voter registration information."

20 Does this reflect the request from the  
21 State Board for the authorization that was  
22 included in H.B. 589?

23 A. I think it does.

24 Q. And so let me go back to the specifics of this  
25 program. You said it's run by Kansas?

1 A. Yes.

2 Q. How does it work? Do you provide them with  
3 your data?

4 A. We do.

5 Q. Then what happens?

6 A. They provide a format of how we -- how they  
7 want the data, and they -- we provided that  
8 data I believe in January, and then they  
9 provided us a date at which they return the  
10 results to us. Marc Burris received all of  
11 those results.

12 Q. And so what do the results look like? Is it a  
13 spreadsheet?

14 A. There are -- yes, it is somewhat -- it is a  
15 spreadsheet. It's broken down by the states,  
16 too, that are involved in it, so there are  
17 separate sections for each state that provided  
18 data.

19 The data that Kansas provides us the  
20 possible matches, so you can look at it in --  
21 in that way as well by state.

22 Q. And what do you mean by possible matches?

23 A. The possible matches are based on first name,  
24 last name and date of birth.

25 Q. Are there any other criteria that are used?

1 A. They do -- if they -- if states provided Social  
2 Security numbers, that is also involved,  
3 provided in the crosscheck, but the total  
4 amount of data may not have Social Security  
5 numbers for all of the possibilities that they  
6 provide back.

7 Q. So is there -- do you request that they look at  
8 particular data or do they -- who decides that  
9 you look at those -- those four types of data,  
10 name, date of birth, Social Security?

11 A. When we received the data back, we looked at it  
12 first. We looked at all the data they  
13 provided.

14 I guess I'm not understanding who  
15 decides what we look at.

16 Q. So you get a list of possible matches.

17 A. Correct.

18 Q. And those are -- those are possible matches  
19 based on name and date of birth, correct?

20 A. Yes, first, last name, date of birth.

21 Q. So how does Social Security come in to play?

22 A. Because that is part of the data. They provide  
23 possible matches with that criteria, but if a  
24 state has provided the Social Security number,  
25 that's also in the data so that would be an

1 additional element that you can look at if a  
2 state was choosing to look at.

3 Q. So then what happens when you get the data  
4 back?

5 A. Well, this is our first year participating so  
6 we just recently received it back, and we  
7 had -- there were close to 600,000 possible  
8 matches based on first, last name, date of  
9 birth.

10 What we did was we wanted to look  
11 at -- because that's a lot of data, Marc Burris  
12 took the data and he decided, after we talked  
13 about it, let's look at first, last name, date  
14 of birth and Social Security number first.  
15 Let's look at the universe of where we have a  
16 match. That's a much better match to look  
17 between that. So we looked at that.

18 We're also looking at that same  
19 criteria, we're looking at it from registering  
20 in two states and/or appearing to have voted in  
21 two states as well. So we're looking at both  
22 of those things.

23 And then he did pull some -- we did  
24 pull some data where it looks as though the  
25 person -- it is a first, last name, date of

1 birth, where the person -- the individuals  
2 are -- appear to be registered in two states  
3 and their registration activity is later in the  
4 other state, other than North Carolina, and  
5 they appear to have cast ballots in both, and  
6 we did pull that data from the 600,000 as well,  
7 but that's just what we pulled to look at, and  
8 that's the 35,000 number.

9 The 155,000 number that we have  
10 reported is a match of first, last name, date  
11 of birth, last four of Social Security number,  
12 and the individual appear to be registered in  
13 North Carolina and another state and the voter  
14 registration date or activity date, which could  
15 be they provided the last activity date, is  
16 later in the other state than in  
17 North Carolina, which is where it's more likely  
18 what we're looking at that they may need to be  
19 removed from North Carolina.

20 Q. Have you concluded that any voters voted in  
21 both states in the 2012 general election --  
22 excuse me.

23 Have you concluded that any voters have  
24 voted in two states in the 2012 general  
25 election?

1 A. We have not made any conclusions at this point.

2 Q. All right. So we looked before at the list  
3 maintenance practices in Exhibit 16.

4 A. Yes.

5 Q. And you said you've done some additional work  
6 looking at deceased voters, the data from DHHS;  
7 is that correct?

8 A. Yes.

9 Q. And data from the DMV?

10 A. Yes.

11 Q. And you also started this Interstate Crosscheck  
12 program.

13 A. Right.

14 And one other thing that we probably  
15 have done that also falls into this, we have  
16 entered into an agreement or MOU with the SAVE  
17 Program with the Department of Homeland  
18 Security to check citizenship or legal present  
19 status in the country if we have a flag from  
20 DMV for that voter.

21 Q. Have the list maintenance practices of the  
22 Board changed in any other ways since March of  
23 2013?

24 A. No.

25 Q. I think I'm going to hand it off to my

1 co-counsel, Ms. O'Connor.

2 MR. COOPER: Why don't we go off the  
3 record for five minutes.

4 THE VIDEOGRAPHER: Off record at  
5 3:14 p.m.

6 (Brief Recess.)

7 THE VIDEOGRAPHER: On record at  
8 3:20 p.m.

9 EXAMINATION

10 BY MS. O'CONNOR:

11 Q. Ms. Strach, we met earlier this morning. My  
12 name is Bridget O'Connor. I'm with the law  
13 firm Kirkland & Ellis, and we represent the  
14 NAACP plaintiffs in this litigation. Good  
15 afternoon.

16 A. Good afternoon.

17 Q. Just I'm going to pick up first on a few of the  
18 topics that you've been asked about earlier.

19 I guess, first, could you start just by

20 explaining from your perspective what is the

21 role and function of the executive director of

22 State Board of Elections.

23 A. My understanding of the role is that it is

24 to -- is the State's chief election official by

25 statute, and so it is to provide direction and

1 guidance to the 100 county boards of election  
2 in the implementation and administration of  
3 elections as they occur in all those counties  
4 and the other aspects of our agency with  
5 respect to campaign finance disclosure and  
6 compliance.

7 Q. Similarly, can you explain your understanding  
8 of the role of the State Board of Elections  
9 with respect to the administration of elections  
10 in North Carolina.

11 A. Right. Correct. The State Board of Elections  
12 also has the -- they have several statutory  
13 obligations that they have to certify elections  
14 that are set by statute. They also conduct  
15 protest hearings or hearings that are appealed  
16 to them. They can set policy for the agency as  
17 well. There are -- there are numerous  
18 statutory functions that the State Board itself  
19 has and is required to do.

20 Q. And for both your role as executive director  
21 and for the State Board of Elections in  
22 carrying out those roles and functions, do you  
23 have an understanding that there are any goals  
24 or kind of missions when it comes to  
25 administering those elections in terms of what

1 you deem to be a good outcome versus a negative  
2 outcome or what you're trying to avoid?

3 A. I mean, the only -- the goals that I am -- that  
4 I believe that we have are to ensure that  
5 elections are conducted fairly and competently  
6 and that the outcome is when you don't have --  
7 you don't have issues that occur in counties  
8 and/or statewide that that's a good election is  
9 when the people there have access to the polls  
10 and eligible people vote, that all of those  
11 things are what I believe the goals of the  
12 State Board of Elections are.

13 Q. Are there any goals with respect to the voter  
14 turnout?

15 A. I think that when we're talking about access,  
16 turnout is always -- we want as much turnout.  
17 We want anyone who is eligible to vote to vote.  
18 I think that that is also a role of the State  
19 Board of Elections to encourage that. I  
20 believe we do through voter education that that  
21 is part of encouraging people to vote.

22 Q. Again, in terms of those roles and achieving  
23 the goal of fair elections, et cetera, have you  
24 or the State Board of Elections reviewed  
25 H.B. 589 to determine whether you believe that

1           it is more or less consistent with the goals of  
2           your agency?

3                       MR. PETERS:  Objection to the form.

4                       THE WITNESS:  The State Board has not  
5           met and discussed as a whole House Bill 589.  I  
6           certainly have not done any analysis from that  
7           perspective.

8                       It is the law that we have been tasked  
9           with administering, and that's what our agency  
10          is doing and I believe the State Board is doing  
11          as well.

12  BY MS. O'CONNOR:

13  Q.  And you mentioned in terms of the law as a  
14          whole.  Have you done any similar analysis with  
15          respect to particular provisions and the effect  
16          that they might have on various aspects of  
17          election administration?

18  A.  No, not analysis.  And I guess what -- the only  
19          thing that I was saying is the State Board has  
20          dealt with certain aspects of House Bill 589 in  
21          their statutory obligations to hear requests of  
22          counties that are actively implementing parts  
23          of that bill.

24  Q.  In terms of achieving or getting as close to  
25          fair elections as possible, does the State

1 Board look at different parts of the  
2 population, and specifically demographic groups  
3 within the population, to assess whether  
4 elections are being conducted fairly?

5 A. I'm not sure -- I'm not sure what you mean.

6 What do you mean? What kind of analysis? What  
7 do you mean by that? I'm not sure I follow.

8 Q. Sure. Does the State Board do any analysis to  
9 determine whether different demographic groups,  
10 races, ethnicities, are being represented  
11 either disproportionately in either direction  
12 in terms of voter turnout, voter registration,  
13 voter participation?

14 A. I'm not aware of our agency ever doing any  
15 studies that studied that other than providing  
16 other groups' data for other groups to do  
17 analysis of that.

18 But as far as making a study based on  
19 any of that, I'm not aware of the State Board  
20 ever making such analysis.

21 Q. Do you agree that if various demographic  
22 groups, ethnicities, races, are not  
23 participating or able to participate in  
24 elections at proportionate rates that that  
25 would be a reflection on whether those

1 elections are fair or not?

2 MR. FARR: Objection.

3 THE WITNESS: I'm not sure that --

4 whether they were fair. I think that it's

5 important that -- from my perspective the only

6 way I can answer that, I think the State Board

7 has a role in ensuring that everybody,

8 regardless of who that person is, what their

9 race or their background is, if they're a fair

10 and eligible voter, it's our job that we

11 provide them everything that we can to afford

12 them that ability to -- to vote and to exercise

13 that right and that our goal is to doing that.

14 We're doing everything we can to ensure that

15 the laws are being administered as fairly as

16 possible, and I believe that's our role.

17 BY MS. O'CONNOR:

18 Q. And so if the data with respect to elections

19 and participating and the trends relating to

20 both of those things showed that a particular

21 provision of H.B. 589 or any other voting law,

22 for that matter, had a disproportionate impact

23 on one group of people within the population,

24 what would the State Board do in response to

25 that information?

1 MR. PETERS: Objection.

2 MR. FARR: Objection.

3 THE WITNESS: I mean, I don't think I  
4 can answer for what -- the actual State Board.

5 I do think it's the State Board's role  
6 as a policy maker, if they believed there was  
7 legislation that was unfair to voters that they  
8 could make recommendations to the General  
9 Assembly to address those. I think that is a  
10 proper role for the State Board to take if they  
11 believe that.

12 BY MS. O'CONNOR:

13 Q. And as an executive director, if that type of  
14 information came to your attention, what could  
15 you do with that information in your role?

16 A. If I believe that there was -- there was  
17 evidence that legislation was negatively  
18 impacting any group of people, then I could  
19 think it could be my responsibility to take  
20 that information before the State Board so that  
21 they could act on it.

22 Q. Has the State Board ever performed any analyses  
23 of registered voters to determine how many do  
24 not have a DMV-issued voter ID?

25 A. Yes.

1 Q. When did the State Board first conduct that  
2 analysis?

3 A. There have been -- I think there were several  
4 reports that have been done on that. And I'm  
5 sorry, I have known exactly when all those  
6 reports were --

7 MR. FARR: Excuse me. I want to  
8 interject to the term "do not have a voter ID."

9 THE WITNESS: No. She said "DMV-issued  
10 driver's license."

11 MR. FARR: "Do not have a DMV-issued  
12 driver's license," I'll object to the form of  
13 that.

14 MS. O'CONNOR: On what basis?

15 MR. FARR: That's not what the report  
16 says. The report said that they didn't match.

17 MS. O'CONNOR: My question was my  
18 question so I just asked the question.

19 BY MS. O'CONNOR:

20 Q. I'll ask you again: Has the State Board ever  
21 performed an analysis of registered voters to  
22 determine how many do not have a DMV-issued  
23 photo ID?

24 MR. FARR: Objection to form.

25 THE WITNESS: What the analysis that

1 I'm aware of that they have done was looking at  
2 whether or not there was information within our  
3 database that matched with DMV to show whether  
4 or not someone had a DMV-issued driver's  
5 license.

6 BY MS. O'CONNOR:

7 Q. And in terms of when those analyses were done,  
8 if you could turn to Tab 1 in your notebook  
9 there.

10 MR. FARR: Do we have --

11 MS. O'CONNOR: You can just give them  
12 one of those packets.

13 BY MS. O'CONNOR:

14 Q. First of all, do you recognize this document?

15 A. I do not recognize this document. I've not  
16 seen this document.

17 Q. Okay. This is a Memo to File with a State  
18 Board of Elections Bates stamp ending in 218  
19 dated February 9, 2011, and the subject being  
20 State Board of Elections SBOE and NC DMV Voter  
21 Registration Database ID Analysis.

22 Are you familiar with there being such  
23 an analysis conducted in 2011?

24 A. Yes.

25 Q. And is that something that you reviewed

1 information about in preparing for your  
2 testimony today?

3 A. Not specifically this. I did not have this  
4 report. This was not one of the reports that  
5 was -- that was provided to me.

6 I was aware -- in conversations with  
7 our IT director, he advised me of when they  
8 conducted analysis, and February 2011 was the  
9 date that he had informed me about.

10 Q. And I neglected to mark this. This will be  
11 marked as Exhibit 46.

12 A. Do you need this one to be marked?

13 MR. FARR: Tab 1 is Exhibit 46?

14 MS. O'CONNOR: Tab 1 is Exhibit 46.

15 (WHEREUPON, Plaintiffs' Exhibit 46 was  
16 marked for identification.)

17 BY MS. O'CONNOR:

18 Q. If you could take a look at that fourth bullet  
19 point on that document which indicates there  
20 are 1,005,581 voter records that the State  
21 Board of Elections is not able to confirm an  
22 exact match with the DMV records or there is no  
23 known record of a DMV-issued ID either in the  
24 voter registration database or in the DMV  
25 database.

1                   And you touched on this earlier in your  
2                   testimony. What is your understanding of an  
3                   exact match in that context?

4           A. And I believe -- and in conversations with  
5           Mr. Burris, I believe that match was an exact  
6           match on name, first and last name, date of  
7           birth, driver's license number. I believe that  
8           that is what it was, but I'm not a hundred  
9           percent sure.

10          Q. Do you know why these matching analyses were  
11           conducted, in particular this February 2011  
12           analysis?

13          A. What I have been told by -- to Mr. Burris and  
14           he said it was made at the request of our  
15           executive director at the time, Gary Bartlett,  
16           and I believe it could have been as a result of  
17           a legislative request.

18          Q. In terms of an exact match, is an exact match  
19           required or will an exact match be required to  
20           vote in terms of the upcoming voter ID  
21           requirement?

22          A. On the -- when you say an exact match, on the  
23           ID?

24          Q. Will a voter need to have an exact match  
25           between their ID and their voter registration

1 records when they vote?

2 A. Well, how I can answer that is our law talks  
3 about reasonable resemblance, reasonable  
4 resemblance of the ID.

5 And the State Board, one of the actions  
6 they did take in their last meetings was to  
7 engage in rulemaking to define exactly what a  
8 precinct official will look at when taking an  
9 ID, and so I think all of those questions will  
10 be answered during the rulemaking process, the  
11 specifics, but it is a reasonable resemblance  
12 of the photo ID.

13 Q. Do you know what the timeframe for the  
14 rulemaking process is going to be?

15 A. We will begin the rulemaking process after --  
16 right after the primary, and we do have a  
17 schedule on that. We had some information that  
18 was put together that will take it so that the  
19 rules will be in place for this in advance of  
20 the 2016 election when it will be implemented.

21 Q. For the upcoming primary election, what, if  
22 anything, will be done to begin to implement  
23 the voter ID requirement?

24 A. Probably one of the most important things that  
25 we're doing is that every voter that presents

1 for the May primary and the general election in  
2 November will be given information about the  
3 requirement to show photo ID in 2016. We have  
4 an actual document that poll workers will  
5 provide to the voter and asking them whether or  
6 not they have any of the acceptable IDs on that  
7 form.

8 If they indicate to us that they are  
9 not, they will sign an acknowledgment so that  
10 we can do additional outreach efforts to assist  
11 that voter in obtaining a proper ID before the  
12 2016 election.

13 Q. Has the State Board of Elections provided any  
14 sort of training or information, educational  
15 information to poll workers with respect to how  
16 they are supposed to conduct that aspect of  
17 their function at the primaries in May?

18 A. Well, at our last State Board training seminar,  
19 that was one of the agenda items that we talked  
20 about is this is going to be a requirement that  
21 all county boards are going to have to add to  
22 their precinct training providing the form and  
23 what you will say. We actually even had sort  
24 of hands-on activities with the county board of  
25 elections staff in what a precinct official,

1           how they interact with the voter in providing  
2           this document.

3                       So, yes, we have provided guidance to  
4           the counties so that they could then train  
5           their precinct officials and one-stop workers.

6       Q.   Has the State Board of Elections reviewed in  
7           any way the experiences of other states that  
8           have implemented voter ID requirements in terms  
9           of forming its own plans for implementation?

10      A.   Not -- not to any extent at this point.  I do  
11           anticipate that we will look at those as our  
12           outreach team comes together over the next  
13           month or so.  That will be something that we  
14           definitely want to look at what has been  
15           successful for states that have been -- that  
16           have implemented this type of legislation.

17      Q.   And so as of the time of the primary election,  
18           the State Board will not have begun its  
19           rulemaking process or reviewed the experiences  
20           of other states in implementing similar  
21           requirements at the time that that election  
22           takes place?

23      A.   Well, the only requirement that we have at this  
24           particular election is to provide information  
25           on what the IDs that will be acceptable are,

1           which is in the statute, and to try to obtain  
2           whether or not someone does not have that  
3           information. So that's what the election  
4           officials will be required to do at this  
5           primary.

6       Q. But in terms of my question, at the time of  
7           that primary, it's true that the rulemaking  
8           process for implementing H.B. 589 will not have  
9           begun and that the State Board will not have  
10          reviewed -- yet reviewed the experiences of  
11          other states in implementing similar  
12          legislation?

13       A. At the time of the primary, the State Board  
14          will not have engaged in rulemaking with  
15          respect to the reasonable resemblance of how  
16          poll workers in 2016 will implement the voter  
17          ID portion of the bill.

18                   And what was the second part of your --

19       Q. Whether the State Board will have reviewed the  
20          experiences of other states.

21       A. No. Other than what little has been done  
22          already, that will also be an ongoing process  
23          that we will be doing as we -- as we continue  
24          to implement the bill.

25       Q. Has the State Board engaged in any public

1 information campaigns of any kind to educate  
2 voters about what the requirements are or are  
3 not with respect to the upcoming primary when  
4 it comes to an ID requirement?

5 A. The statewide voter guide that we spoke about  
6 earlier today, this voter guide that we have  
7 been doing since 2004, a part of that in  
8 addition to the candidates that are part of it  
9 is to provide education to the public.

10 We use this particular voter guide as  
11 an opportunity to put information about all the  
12 changes that will be in effect for the 2014  
13 primary, what they will need to expect and  
14 including information about the voter ID that  
15 will be required for 2016.

16 We also in that voter guide, which goes  
17 to not only registered voters but to every  
18 household, we included the Absentee Ballot  
19 Request Form for individuals if they wanted to  
20 request an absentee ballot. There were changes  
21 to that process. So in explaining what those  
22 process changes were, we also include the  
23 request form so they could utilize it as well.

24 Q. Has the State Board done any research or  
25 analysis on the potential for voter confusion

1 in the elections that precede 2016 given that  
2 the H.B. 589 has a voter ID requirement and  
3 whether or not voters may be confused as to  
4 when that would come into play and potentially  
5 try not to vote if they don't have an ID?

6 MR. PETERS: Object to the form.

7 THE WITNESS: What I believe that -- we  
8 have not done any analysis on what the  
9 confusion is but understanding that since  
10 people do contact us and are asking about voter  
11 ID, that's why it was very important in this  
12 voter guide that does go to all households that  
13 we make it very prominent that this ID  
14 requirement is not until 2016.

15 Also the information that will be  
16 provided beginning with one-stop voting, which  
17 begins next week, will provide information to  
18 people that they do not have to provide ID  
19 until 2016.

20 BY MS. O'CONNOR:

21 Q. Okay. Turning to the second page of what has  
22 been marked as Exhibit 46, the bottom chart on  
23 that page breaks out that -- the top line says:

24 "The demographics of the voters  
25 who the State Board of Elections could

1 not match a DMV-issued ID are as  
2 follows."

3 A. I'm sorry.

4 Q. Tab 1 in your notebook.

5 A. Okay.

6 Q. On the second page.

7 A. Yes.

8 Q. And it sets out on the bottom chart there a  
9 chart by race. Do you see that chart?

10 A. I do. I do.

11 Q. And that chart breaks out demographics of the  
12 voters who the State Board could not match a  
13 DMV-Issued ID, and there are 267,396 Black or  
14 African American voters listed there.

15 Do you see that?

16 A. I do.

17 Q. And relative to the other distribution there,  
18 do you have a sense as to whether that is a  
19 proportional representation relative to the  
20 overall population of Black or African  
21 Americans in North Carolina?

22 MR. PETERS: Objection.

23 THE WITNESS: What I guess -- are you  
24 asking me is this -- is this data -- is this  
25 data proportional to -- I mean, what I can tell

1           you is that the 267 is based on subsequent  
2           reports that Marc Burriss has spoken with me  
3           about. He does not believe that number is  
4           accurate.

5           BY MS. O'CONNOR:

6           Q. Okay. And we can get to that in a minute, but  
7           just in terms of the number that's listed in  
8           the 2011 report, do you have a sense whether  
9           that is proportional to the overall population  
10          of Black or African Americans in  
11          North Carolina?

12                       MR. FARR: Objection to the form.

13                       THE WITNESS: That number is high.

14          BY MS. O'CONNOR:

15          Q. And also this chart doesn't break out any  
16          category for Hispanic or Latino voters; is that  
17          correct?

18          A. Right.

19          Q. Do you know why that is?

20          A. I don't.

21          Q. Do you know whether the State Board maintains  
22          any information that would allow that category  
23          as to Hispanic or Latinos to be assessed?

24          A. I believe that we have. I thought that we did  
25          have that information. I thought that we did

1           have that information. I'm sorry, I'm not -- I  
2           thought we did have that additional  
3           information.

4           Q. Okay. In terms of the way the information is  
5           listed here, do you have an understanding as to  
6           whether Hispanics or Latinos are included  
7           within any of the categories that are listed?

8           A. I'm sure that they are. I'm just not sure  
9           which category they would be included in.

10          Q. All right. In terms of achieving an exact  
11          match between a voter ID and a voter record, do  
12          you know what types of issues would trigger --  
13          in terms of the failure to match a name would  
14          trigger the failure to achieve an exact match?

15          A. From what I have been -- in this particular  
16          analysis and what I've been told is if there  
17          were any spelling differences in the name, that  
18          could knock out an exact match with this  
19          particular study.

20                        So it was based on names being  
21          correctly spelled that would have not probably  
22          been part of this particular study, I don't  
23          believe.

24          Q. And actually, could you describe your  
25          understanding of how the State Board actually

1 conducted this matching analysis?

2 A. I'm not sure that I can speak intelligently  
3 about that. That is definitely Marc Burris.  
4 He can tell you exactly how they engaged in  
5 that.

6 Q. Okay. Turn to Tab 2 in your notebook. And if  
7 you could take a look at that.

8 Is this a document that you've seen  
9 before?

10 A. The e-mail exchange?

11 Q. Yes. We'll start with the e-mail and then  
12 there's an attachment that --

13 A. I don't think I see an e-mail exchange.

14 MS. O'CONNOR: And just for the record,  
15 I'll be marking this Exhibit 47, and it's a  
16 March 5, 2013, e-mail from Veronica  
17 DeGraffenreid to Gary Bartlett, Johnny McLean  
18 and Marc Burris.

19 (WHEREUPON, Plaintiffs' Exhibit 47 was  
20 marked for identification.)

21 BY MS. O'CONNOR:

22 Q. Do you see that?

23 A. I do.

24 Q. And do you have any reason to doubt that this  
25 is an e-mail from Ms. DeGraffenreid?

1 A. I do not.

2 Q. Let's turn next to one page forward to the  
3 attachment which ends in Bates number 53873.

4 Do you see that's on State Board of  
5 Elections letterhead from Gary Bartlett?

6 A. I do.

7 Q. And the title of this document is "2013  
8 SBOE-DMV ID Analysis"?

9 A. Yes.

10 Q. Is that a document that you're familiar with?

11 A. I am aware of this analysis. I don't believe  
12 that I actually have ever been provided a copy  
13 of the actual report, but I have been told  
14 about it.

15 Q. Is this type of information -- in your current  
16 capacity as executive director, is this  
17 information that you would use in your  
18 day-to-day administration of and specifically  
19 in anticipation of the implementation of  
20 H.B. 589?

21 A. Would we use information of people that may not  
22 have an ID, absolutely.

23 Q. So this report is the kind of report that you  
24 could or would see in your role?

25 A. Yes.

1 Q. And for this analysis in particular, it  
2 indicates that in late December 2012 the  
3 North Carolina Department of Motor Vehicles  
4 provided the State Board of Elections data  
5 records of the 12,220,731 DMV customers.

6 And then skipping ahead a couple of  
7 sentences:

8 "The State Board of Elections  
9 compared the DMV records to the  
10 6,624,672 active and inactive voters  
11 who were registered in this state as  
12 of January 1, 2013."

13 So this analysis -- this matching  
14 analysis was conducted as of 2013?

15 A. Yes.

16 Q. And do you know why this analysis was done at  
17 that time?

18 A. I am not sure why this analysis was done  
19 specifically. I think that there were --  
20 according to my conversations with Marc Burris,  
21 there was additional -- additional criteria I  
22 think that they wanted to look at, and so a  
23 second -- another report was done.

24 I'm not sure -- he wasn't very sure  
25 either about the details of why it was done at

1           that time.

2           Q.   And on the fourth bullet point down there it  
3           says:

4                       "A DMV ID match could not be  
5                       made on a remaining 612,955 registered  
6                       voters.  These voters may not have a  
7                       DMV-issued driver's license or state-  
8                       issued identification card."

9                       Do you see that?

10          A.   I do.

11          Q.   And that number had come down from the prior  
12               2011 matching analysis.  Is that your  
13               understanding?

14          A.   Based on the reports, yes.

15          Q.   Do you have an understanding as to why that  
16               number came down?

17          A.   My understanding from Marc is additional  
18               matching criteria was added the second time  
19               which would have impacted the numbers.

20                       I'm not sure what matching criteria was  
21                       done in this particular report.  I'm not sure  
22                       if it defines it.

23          Q.   Okay.  And turning to the page -- it's marked  
24               page 3 at the top of the page.  Just flipping  
25               over one page in the document, on the

1 right-hand side there, the page on the right,  
2 there's a table, and on the left  
3 column -- well, you can see in sort of faint  
4 writing there says "Table 5: Race of Potential  
5 Voters with no DMV-issued by Party."

6 Do you see that?

7 A. I do.

8 Q. Do you know why the State Board has broken the  
9 results out by race here?

10 A. I do not know.

11 Q. In your capacity as executive director, is  
12 information like this broken out by race useful  
13 to you in any way?

14 A. Race, whether that's useful to me in any way.  
15 I could see where it could be helpful where we  
16 partner with the political parties. Certainly  
17 that information could help us help a political  
18 party define who they might need to help in  
19 their party obtain an ID, I can see where that  
20 could be a useful tool from an outreach  
21 standpoint. That's the way I think it could be  
22 used.

23 Q. Is this information useful to the State Board  
24 in any way in terms of identifying how this new  
25 requirement will impact the population of

1 North Carolina?

2 A. I guess the way we use any of this data is it  
3 helps us make -- how we use our outreach  
4 efforts and who we need to be reaching, so  
5 that's how we would look at it.

6 Q. And you mentioned a minute ago the political  
7 parties. Is the State Board relying on the  
8 political parties to do the outreach on --

9 A. No.

10 Q. -- ID?

11 A. Sorry. No. No. But it's certainly -- we  
12 believe that because we're looking at the state  
13 that we should partner with any group that has  
14 an interest in people voting, and certainly  
15 political parties do have that interest.

16 So I think that there are people  
17 that -- we're not asking them to do the job for  
18 us, but certainly any assistance we can from  
19 any group that is willing to help will be  
20 needed and wanted and appreciated.

21 Q. Okay. Do you know when -- after this  
22 January 2013 analysis, do you know when the  
23 next analysis was conducted?

24 A. I know that there was -- I believe there could  
25 have been -- let's see. I know there was one

1 done in April. There appears there might have  
2 been one done also in March as well.

3 Q. Okay. Before I get to that, on the second to  
4 last page of Exhibit 47, the bottom of the page  
5 is marked 58376.

6 A. Yes.

7 Q. The last sentence there, it says:

8 "A manual examination of the  
9 comparative data showed name variances most  
10 likely based on misspellings or data entry  
11 errors; changes to last names perhaps due to  
12 marriage or divorce; or individuals  
13 inconsistently using hyphenated names," and it  
14 provides some examples there with Mary Brattain  
15 versus Mary Walsh Brattain, "intermixing their  
16 first and middle names," again with some  
17 examples, "or abbreviated forms of their first  
18 name."

19 With respect to those particular issues  
20 that could occur, how is the State Board  
21 addressing those with respect to the  
22 implementation of the ID requirement?

23 A. That is -- one of the things that we have been  
24 able to obtain from the DMV is more complete  
25 data from DMV, including name changes, so we've

1       been able to use -- take name changes which was  
2       data we had not received in the past and  
3       compare that so that we can see if a particular  
4       voter has had a name change on record with DMV  
5       so we can match that together so that we can  
6       better communicate with that voter.

7               There are other things that Marc Burris  
8       can speak to much better than I can about  
9       things that he has available to be able to use  
10      certain things to try to identify people,  
11      potential matches even if there are  
12      misspellings or other deviations.

13             We're trying to certainly use anything  
14      we can to try to see who in fact we need to  
15      communicate with.

16    Q.   In terms of how the poll workers are being  
17       trained, what have they been told or are they  
18       being told in terms of how to administer this  
19       requirement when they encounter name issues  
20       like the ones that are laid out there?

21    A.   We've not provided guidance to the county  
22       boards on this particular issue yet because  
23       it's not until 2016, and it's something that we  
24       want to make sure that we want to go through  
25       the rulemaking process and have an opportunity

1 for public hearings and comments before the  
2 State Board issues rules on that, and then we  
3 will be in a better position to provide that  
4 guidance to the counties.

5 Q. Just to clarify, at the primary, are the poll  
6 workers going to be asking voters whether they  
7 have an ID?

8 A. They are going to be giving -- they will have a  
9 form that they will give them, a document will  
10 list out the types of ID, and they will ask  
11 them do you have one of these types of ID. You  
12 don't have to show it. Do you have that. If  
13 you do not, they're going to be asked to sign  
14 an acknowledgment of that fact.

15 Q. And so when a voter might follow up with a  
16 question like, "Well, I've got this ID, does  
17 this count," are the poll workers being  
18 educated about what -- how to respond to those  
19 types of follow-up questions?

20 A. Well, at this time the list is what they're  
21 supposed to give them which it advises them to  
22 contact their county board of elections or the  
23 State Board of Elections to follow up on those  
24 types of questions.

25 Q. And in terms of their ability to identify

1 appropriate forms of ID or whether those forms  
2 of ID would be accepted when it comes time when  
3 they actually are required, at this point the  
4 poll workers have not been educated on those  
5 grounds?

6 MR. FARR: Objection.

7 THE WITNESS: Not at this time they  
8 have not.

9 BY MS. O'CONNOR:

10 Q. And this may double up on that question, but on  
11 those examples that were laid out in the March  
12 2013 matching report with the different name  
13 mismatch possibilities -- and just for your  
14 reference, I'll refer you back to those.  
15 They're at the bottom of that page 58376. Do  
16 you see where they are?

17 A. I do.

18 Q. Of those do you have an understanding as you  
19 sit here today as to which of those types of  
20 mismatches would be allowed to vote and which  
21 would not?

22 MR. PETERS: Objection; calls for  
23 speculation.

24 THE WITNESS: As I stated earlier, I  
25 would not be able to answer that question until

1 I think we've gone through the rulemaking  
2 process and clearly defined what it is a poll  
3 worker will be asked to look at when they're  
4 looking at an ID.

5 BY MS. O'CONNOR:

6 Q. All right. I'll have you turn to Tab 3, the  
7 next tab in your binder. The document starts  
8 there with an e-mail from Veronica  
9 DeGraffenreid to Veronica DeGraffenreid. The  
10 Bates number at the bottom is SBE-P-00002575.

11 Is this a document that you've seen  
12 before?

13 MR. FARR: Are you going to mark this?

14 MS. O'CONNOR: Yes.

15 MR. FARR: What?

16 THE WITNESS: The e-mail -- I'm sorry.

17 MR. PETERS: It should be 48.

18 THE WITNESS: I've got the e-mail and  
19 then I've got the bill.

20 BY MS. O'CONNOR:

21 Q. Yes. And then there are actually a couple of  
22 attachments behind it. There's the bill and  
23 then a State Board of Elections memo --

24 A. Yes.

25 Q. -- from Gary Bartlett at page 2590. Do you see

1           that?

2           A. I do.

3           Q. Is that a document that you've seen before?

4           A. It is.

5           Q. And I am going to mark this document as a whole  
6           Exhibit 48.

7                                 (WHEREUPON, Plaintiffs' Exhibit 48 was  
8           marked for identification.)

9           BY MS. O'CONNOR:

10          Q. Flipping to that page 2590, April 2013 SBOE-DMV  
11          ID Analysis, is that a document you're familiar  
12          with?

13          A. Yes.

14          Q. And that is a document that -- are you familiar  
15          with that from your work as executive director  
16          or is that something that you are familiar with  
17          through preparation for your deposition today?

18          A. I have seen this report when I was named the  
19          executive director, and after the passage of  
20          the bill, this was the report that I was  
21          initially provided as the report that showed  
22          the possible -- the individual voters that  
23          possibly may not have an ID. This was the  
24          report that was provided to me.

25          Q. Okay. And in the second paragraph of that

1 document says:

2 "This April 2013 DMV ID analysis  
3 supplants our January 27, 2013,  
4 analysis and its March 5, 2013,  
5 supplemental report. The SBOE prepared  
6 these analyses as a result of various  
7 legislative and media inquiries  
8 concerning the possible number of  
9 registered voters who may not have NC  
10 DMV-issued photo identification."

11 Do you see that?

12 A. I do.

13 Q. And do you know specifically who those  
14 legislative and media inquiries came in from?

15 A. I do not know specifically who the -- I mean, I  
16 do know some of the individual legislators that  
17 I was told were part of this. I'm not sure if  
18 that's something --

19 MR. PETERS: We would object to that to  
20 the extent it would violate legislative  
21 immunity or privilege.

22 Other than that, you can answer.

23 THE WITNESS: And I'm not sure of the  
24 media -- of the media requests for this. I'm  
25 not sure specifically who those media requests

1           were.

2                     It's my understanding it was done --  
3           there were some legislators that were involved  
4           in this analysis as well as the request.

5                     MS. O'CONNOR:  And I would note for the  
6           record again our objections subject to the  
7           resolution of the legislative privilege/  
8           immunity briefing?

9                     MR. PETERS:  Right.

10           BY MS. O'CONNOR:

11           Q.  If you could turn to the page 2604 in this  
12           document.  In the first paragraph there at the  
13           bottom, it says:

14                     "Total number of registered  
15           voters for whom the SBOE could not  
16           match with the NC DMV database is  
17           318,643."

18                     Do you see where I just read from?

19           A.  I do.

20           Q.  So the number here has come down from over a  
21           million in the first report that we looked at  
22           to 318,000 and change in this document; is that  
23           right?

24           A.  Yes.

25           Q.  And again, do you have an understanding as to

1           how that reduction was achieved between those  
2           three reports?

3           A. I believe that the report speaks for itself,  
4           that it's the addition of the additional  
5           matching criteria that were added to the  
6           matching on their 29 different matching  
7           criteria. It seems to be broken down by each  
8           one of them.

9           Q. Do you know who developed the initial matching  
10          criteria and who identified the changes to that  
11          criteria over the course of these three  
12          reports?

13          A. I know that -- I'm not sure, in addition to  
14          Marc Burris, who might have been involved in  
15          the initial matching criteria.

16                   I do know that Marc has been involved  
17          in all of the analysis that have been done and  
18          could probably speak to exactly who has been  
19          part of that, but he -- I do believe there were  
20          staff members and I believe there could have  
21          been legislative staff members that were also  
22          involved in the development of this matching  
23          criteria.

24          Q. So that was going to be my next question. So  
25          to your knowledge, there were individuals

1 outside of the State Board who were involved in  
2 developing these criteria, these matching  
3 criteria --

4 A. I believe so.

5 Q. -- in addition to Mr. Burris?

6 If you turn to page -- to the  
7 following -- flip over one page and it ends in  
8 2607, the data on that page. If you look at  
9 the first chart there, "Comparison of Total  
10 Registered Voters against NC DMV Database," the  
11 line there for Black or African American voters  
12 is -- looks like a grand total of 107,681.

13 A. Yes, I see that.

14 Q. And an ultimate grand total of 318,643. Do you  
15 see that?

16 A. Yes, I do.

17 Q. Would you agree that that's roughly 33 percent  
18 of those that were not matched were Black or  
19 African American voters?

20 A. 33 percent of the registered voter population  
21 for Black, is that what --

22 Q. That's right.

23 A. I'm not -- I'm not sure of the specific -- of  
24 the exact percentage, but that -- that probably  
25 is close to that.

1 Q. And again, do you have any understanding as to  
2 how that percentage, 33 percent, compares to  
3 the percent of the overall population in  
4 North Carolina that African Americans comprise?

5 A. I do not know that information.

6 Q. Is that something that you think would be  
7 important to know in understanding the impact  
8 of this requirement?

9 MR. FARR: Objection.

10 THE WITNESS: From an administration  
11 standpoint, I think my job and what I believe  
12 my responsibility is to see that the 107,681  
13 voters are contacted and given all the  
14 information they need to get an ID if they  
15 don't already have one, and that's -- I guess  
16 that's the important information for me to know  
17 and hoping we can get them that information and  
18 the ID.

19 BY MS. O'CONNOR:

20 Q. And if that number is disproportionate to the  
21 overall proportion of the population that  
22 African Americans comprise, is that something  
23 that you find concerning in any way?

24 MR. FARR: Objection.

25 MR. PETERS: Objection.

1 MR. BOWERS: Objection.

2 THE WITNESS: First of all, I think  
3 it's important to understand what this analysis  
4 is. It does not mean that these people do not  
5 have an acceptable ID. So we're just matching  
6 on driver's license.

7 What would be concerning to me is if  
8 we're not able to get these individuals ID, and  
9 that's a goal and I think a responsibility of  
10 our office to do that, and I would be troubled  
11 if we failed that.

12 BY MS. O'CONNOR:

13 Q. Are you aware of any other analyses like this  
14 that rather than looking for an NC DMV ID match  
15 as this does are doing what you just identified  
16 is to look for any acceptable ID to determine  
17 whether those same percentages or the  
18 allocation by demographic groups is  
19 proportional or disproportionate?

20 A. Have we looked at any of the other acceptable  
21 IDs to see if we can determine, we have not.  
22 That is something that we have talked about and  
23 probably if there are databases that have that  
24 type of information, we will look at that as  
25 well.

1 Q. And is that something that the State Board in  
2 fact has a plan to undertake?

3 A. We have actually had discussions about that, of  
4 looking at that and finding where we could  
5 possibly find databases to see who might have  
6 these types of ID. So we have discussed that  
7 and that is something that is on our agenda for  
8 our outreach team to engage when they are in  
9 place.

10 Q. Getting back to the numbers that you do have,  
11 which is this study, just looking at the  
12 information that is here, which is the number  
13 of Blacks and African Americans that lack  
14 a -- or for which the State Board of Elections  
15 could not identify and NC DMV ID match, if that  
16 number is disproportionate, just as a starting  
17 point, is that something that you would find  
18 concerning?

19 MR. FARR: Objection.

20 THE WITNESS: Like I said, I think  
21 what's -- to me, I am focused on ensuring that  
22 anyone that is on this list regardless of their  
23 race is contacted and is provided the  
24 opportunity to have an acceptable form of ID,  
25 and I guess where I would be troubled is if I

1 thought we couldn't do it. I think we can do  
2 that based on the time period we have between  
3 now and 2016. So I would be troubled if we  
4 didn't do it.

5 BY MS. O'CONNOR:

6 Q. If you look down to the next chart, "Comparison  
7 of Voters with Voter History in 2012 General  
8 Election against NC DMV Database," in that  
9 chart Black or African Americans are listed  
10 with 49,261 as compared with a grand total of  
11 138,425.

12 So if I represented to that that's  
13 approximately 35 percent, that 49,261 is  
14 approximately 35 percent of the grand total,  
15 again, does that give you any cause for concern  
16 with respect to the impact on Black or African  
17 American voters?

18 MR. FARR: Objection.

19 MR. PETERS: Objection.

20 THE WITNESS: I mean, once again, it's  
21 something that we will use in our outreach  
22 efforts to reach these groups. I mean,  
23 that's -- that's what I think as a State Board  
24 of Elections that's what we have to do, and if  
25 we fail in that, that is the concern that we

1 would have.

2 BY MS. O'CONNOR:

3 Q. Did the State Board ever share its DMV ID  
4 matching data with the sponsors of House Bill  
5 589.

6 A. I would not have been a part of that. I'm not  
7 sure if they did or not. I don't know  
8 specifically who they shared that analysis  
9 with.

10 Q. In your capacity as the representative from the  
11 State Board of Elections, do you have an  
12 understanding as to whether this information  
13 was shared with sponsors of H.B. 589?

14 A. I believe that it was. I believe that this  
15 particular report, I believe it's on our public  
16 FTP site as well.

17 Q. Do you know of any legislators in particular  
18 who had requested this information?

19 MR. PETERS: Objection to the extent it  
20 calls for any testimony that would be covered  
21 by legislative immunity or privilege.

22 THE WITNESS: I don't think I could  
23 answer that question.

24 BY MS. O'CONNOR:

25 Q. And as you sit here today, can you think of a

1 reason why the legislators would request this  
2 data?

3 MR. PETERS: Objection to the extent it  
4 calls for speculation.

5 THE WITNESS: I mean, legislators  
6 request data from us all the time when they are  
7 proposing legislation. I would assume any  
8 legislation that they provide, that they are  
9 considering implementing that they would ask  
10 for data that was relevant to that.

11 BY MS. O'CONNOR:

12 Q. Okay.

13 A. I couldn't say specifically what.

14 Q. Can you think of any reasons why a legislator  
15 would want to know a racial breakdown of the ID  
16 matching for North Carolina?

17 MR. PETERS: Objection.

18 MR. BOWERS: Objection; calls for  
19 speculation.

20 THE WITNESS: I'm mean, I'm not sure  
21 what reason that they would use that for, no,  
22 I'm not.

23 BY MS. O'CONNOR:

24 Q. So is it fair to say that as you sit here you  
25 can't think of any reason that they would ask

1 for that information broken out by race?

2 MR. PETERS: Objection.

3 MR. FARR: Objection; mischaracterizes

4 the testimony.

5 THE WITNESS: I don't know why they

6 would ask for that information.

7 BY MS. O'CONNOR:

8 Q. My question was as you sit here, you can't  
9 think of any reasons why they would ask for it  
10 broken down by race?

11 A. I mean, I haven't thought about it so I don't  
12 know how to necessarily answer that. I'm not  
13 sure for what purposes they were asking for the  
14 information. I really don't know how to answer  
15 that.

16 Q. I'll ask you to turn to the next Tab 4, another  
17 e-mail chain from Veronica DeGraffenreid dated  
18 Tuesday, March 12th, forwarded I believe to  
19 herself.

20 Is this an e-mail chain that you have  
21 seen before?

22 A. It is not.

23 MS. O'CONNOR: I am going to mark this  
24 Exhibit 49.

25 MR. PETERS: I need to enter an

1 objection to this. This appears to be another  
2 document that slipped through. It clearly  
3 involves communication with legislators and  
4 should have been pulled as covered by  
5 legislative immunity or privilege.

6 (WHEREUPON, Plaintiffs' Exhibit 49 was  
7 marked for identification.)

8 MS. O'CONNOR: We are going to again  
9 preserve our right to ask about this upon  
10 resolution of that motion.

11 MR. PETERS: Right.

12 MS. O'CONNOR: And again, I would ask  
13 for a follow-up if that's your intention.

14 BY MS. O'CONNOR:

15 Q. Do you know if -- we saw in some of the earlier  
16 charts that Hispanics or Latinos are not broken  
17 out at least in the charts that we have seen so  
18 far. Do you know if information broken out  
19 by -- to identify the percentage of Hispanics  
20 or Latinos that lack DMV-issued IDs has ever  
21 been pulled or provided to either the  
22 legislature or other sources that have  
23 requested it?

24 A. I don't know. As I was saying earlier, I  
25 believe we have the ability to look at

1 Hispanic, but I am not certain that that is in  
2 our data. I am not sure. That is a Marc  
3 Burris question.

4 Q. Okay. I am going to ask you to -- hopefully  
5 you can find this in your stack -- Exhibit 17  
6 from earlier today. And that's the May 18,  
7 2011, memo regarding House Bill 658.

8 You've got that?

9 A. I've got it.

10 Q. Okay. So if you flip to the last page of that  
11 document, there's a chart entitled "First week  
12 Turnout for Early Voting."

13 A. Yes.

14 Q. And we looked at this I believe a little bit  
15 earlier. You can see there that Black or  
16 African Americans are broken out there for the  
17 2008 and 2010 elections for the first week  
18 turnout.

19 Do you see those numbers there?

20 A. I do. I do.

21 Q. And so for 2008 the number for Blacks and  
22 African Americans that turned out in the first  
23 week are 225,813.

24 A. Yes.

25 Q. And that's out of a total of 706,445?

1 A. Yes.

2 Q. And that compares to a number for white voters  
3 during that same week of 453,675 voters. Do  
4 you see that?

5 A. I do.

6 Q. Similarly in 2010, you see the figures there  
7 for the first week of voting.

8 When the first week of early voting is  
9 eliminated as a result of H.B. 589, do you know  
10 what the impact will be on Black or African  
11 American voters?

12 MR. PETERS: Objection to form.

13 MR. BOWERS: Objection; calls for  
14 speculation.

15 THE WITNESS: I'm not sure I can answer  
16 that. I'm not sure anybody can answer that.  
17 There will always be a first week of early  
18 voting. It will not be this first week but  
19 there will be a first week, and I don't know  
20 how we can predict that without seeing how it  
21 at least plays out beginning in this primary.  
22 I certainly do not -- I don't know how you  
23 could speculate on that.

24 BY MS. O'CONNOR:

25 Q. But in terms of your role as executive director

1 of the State Board and you look at -- you have  
2 a lot of data available to you that you use for  
3 various purposes.

4 A. Sure.

5 Q. You would agree that using data from past  
6 elections that look at that exact same period  
7 would be helpful to examine that question.

8 MR. FARR: Objection.

9 MR. PETERS: Objection.

10 THE WITNESS: I mean, once again, as  
11 this is characterized, it's characterized as  
12 first week turnout for early voting. It will  
13 be interesting to see that there will be a  
14 first week this time as well, so we will see  
15 what those numbers are.

16 That -- to me this is what that speaks  
17 to, it speaks to the first week of voting,  
18 whenever the first week happens to be.

19 BY MS. O'CONNOR:

20 Q. And that -- but now it will be the first week  
21 of a shorter period. You agree with that?

22 A. Sure, absolutely.

23 Q. And that shorter period will include, for  
24 example, one fewer Sunday than it previously  
25 would.

1 A. True.

2 Q. Do you have any information or knowledge about  
3 the patterns of Black or African American  
4 voters in voting on Sundays during the early  
5 voting period?

6 A. I don't have specific analysis. I don't  
7 believe that our office has done any specific  
8 analysis on that particular question.

9 Q. So you have not looked at the trends of Black  
10 or African American voters to vote in  
11 particular on Sundays during early voting, so  
12 you don't have an understanding as you sit here  
13 today as to what the impact will be by  
14 eliminating one of the Sundays within the early  
15 voting period?

16 MR. PETERS: Object to form.

17 THE WITNESS: We've not conducted any  
18 analysis on that.

19 BY MS. O'CONNOR:

20 Q. All right. Turning to Tab -- let's see. I  
21 think -- it should be Tab 5 in your book there.  
22 This is a copy of what was H.B. 589, now  
23 Session Law 2013-381.

24 Do you see that?

25 A. Yes, I do.

1 Q. Okay. I am going to mark this as Exhibit 50.  
2 And before I do that, we have not marked a copy  
3 of this already today, have we?

4 MS. RIGGS: No.

5 (WHEREUPON, Plaintiffs' Exhibit 50 was  
6 marked for identification.)

7 BY MS. O'CONNOR:

8 Q. If you could turn to Section 5.2. The first  
9 part of that section 5.2 says:

10 "The State Board of Elections  
11 shall disseminate information about  
12 photo identification requirements for  
13 voting, provide information on how to  
14 obtain photo identification appropriate  
15 for voting and assist any registered  
16 voter without photo identification  
17 appropriate for voting with obtaining  
18 such photo identification."

19 With respect to that last piece,  
20 assisting any registered voter without photo  
21 identification appropriate for voting with  
22 obtaining such photo identification, what  
23 specifically does the state plan to do in order  
24 to provide that type of assistance?

25 A. Well, one of the things that we have been doing

1 on a very frequent basis is meeting with the  
2 Department of Motor Vehicles because we need  
3 that partnership in order to effectively  
4 accomplish this.

5 So our plans are after the May primary,  
6 when we have more of a list of people that have  
7 signed acknowledgments that they do not in fact  
8 have appropriate photo ID, along with the other  
9 analysis we have that's been conducted from our  
10 own database with DMV, our plans -- and we have  
11 got a very strong commitment from the  
12 commissioner of DMV that we will work together  
13 in coordinating efforts, including where the  
14 mobile DMV units will be so that we can assist  
15 voters that we identify in giving them accurate  
16 information where a DMV -- not only the DMV is  
17 located but whether a mobile unit is going to  
18 be in their area. We are going to work closely  
19 with them.

20 Not only are we contacting voters and  
21 telling them we're going to assist them, we're  
22 going to actually do what we can to partner  
23 with DMV to make that happen in the entire  
24 process.

25 Q. And on the subject of DMV mobile units, how are

1 the decisions made on the location of those  
2 units?

3 A. Well, we met with the commissioner about that,  
4 and he said he does have flexibility. If we  
5 are able to determine that we have a group of  
6 voters that we might need to assist in getting  
7 DMV ID, that they can make arrangements for the  
8 mobile unit to be in those locations if we can  
9 coordinate those efforts.

10 So I think the commissioner has -- has  
11 not only an ability to do that but a commitment  
12 to do that, as he stated as well.

13 Q. And so do the locations of those mobile units  
14 vary? Are they able to be -- I mean, I know  
15 they're called mobile units, but once they're  
16 identified for a location, do those locations  
17 change?

18 A. Yes, they can.

19 Q. Can you explain how this works?

20 A. He says that they can be -- they don't have all  
21 that many units, but the units that they have,  
22 they can place -- they can make available  
23 wherever we need them to be. I don't think  
24 there's limitations on that. Clearly we would  
25 want to go to places -- there are places that

1           there are not DMV offices, so we would want to  
2           do that as well.

3                     Another thing that we can do that was  
4           brought up by the commissioner of DMV is that  
5           they have the ability to now, with what they  
6           call the suitcase, and they provide home visits  
7           to some and they're trying to look at how they  
8           can use that part of their resources to further  
9           assist in this effort, too, so we'll be trying  
10          to employ all of those efforts.

11        Q.   How has the State Board communicated to voters  
12          the availability and schedules for the mobile  
13          DMV units?

14        A.   Right now the schedules are just on DMV.  This  
15          is an effort that we are going to engage in,  
16          that we wanted to get the data from the primary  
17          in order to have a better understanding and  
18          have our team in place, our outreach team in  
19          place to do that.

20                     But our plan is to provide that  
21          information not only on our website, they will  
22          be providing it on their website and any other  
23          ways we can do that either using the media, the  
24          radio, with our public information officer,  
25          doing everything we can to get this word out,

1 we will do that.

2 Q. Has the State Board done anything to provide or  
3 coordinate volunteers to assist voters with  
4 obtaining photo ID?

5 A. Has -- have we worked with volunteers?

6 Q. Right.

7 A. That is part of what I was -- when I was  
8 speaking about our outreach team is -- part of  
9 their agenda, part of their goals is going to  
10 be partnering with volunteer organizations in  
11 the various counties that they can partner with  
12 to assist so that those people can assist our  
13 outreach team in these efforts as well, so that  
14 is certainly part of our plan.

15 Q. And other than the mailing out of the voter  
16 guide, what information has the State Board  
17 already distributed to registered voters about  
18 the photo ID requirements?

19 A. Other than the voter guide, we have -- we have  
20 redone our website in which we have devoted a  
21 section to the photo I D and the other  
22 legislative changes. That's one of our efforts  
23 that we think -- our website gets a lot of  
24 traffic, so we think that is another effective  
25 way of reaching people when they come, they

1 check their other voter registration, they're  
2 going to be able to get that information as  
3 well, when they come to look at other things  
4 they look at on the State Board of Elections  
5 website they'll get that information.

6 Q. Moving back to the plan for the May primary,  
7 what specifically does the State Board plan to  
8 do with the photo ID acknowledgment forms once  
9 they're received?

10 A. We have made changes to our statewide  
11 information system so that we can use that  
12 information and those will be people that will  
13 be on the outreach list of people that we will  
14 immediately be reaching out to.

15 Q. And how will you be reaching out to them?

16 A. Well, it depends. Whatever -- all the ways we  
17 think are effective to do that, by letter, by  
18 phone call, that we will be using all of those  
19 strategies to reach them.

20 Q. How is the State Board paying for the PR or  
21 education associated with these new  
22 requirements?

23 A. Well, the money that has been appropriated, we  
24 have been appropriated a million dollars for  
25 this fiscal year. We'll get another million

1 dollars for the next fiscal year. Out of those  
2 funds is where any media campaigns or any  
3 outreach efforts we do will be financed by that  
4 fund.

5 Q. Will you be using any HAVA funds for those  
6 efforts?

7 A. That -- the HAVA funds right now -- we don't  
8 have access this fiscal year for those. That  
9 will be at the direction of the General  
10 Assembly what we use those funds for.

11 Q. And we talked about the plans with respect to  
12 the implementation of the voter ID requirement  
13 as it will stand as of May 2014.

14 What about for November 2014, what will  
15 the State Board be doing with respect to voter  
16 ID in that election?

17 A. Well, as we are doing with the May primary, we  
18 will, once again, do the same thing we're doing  
19 now with providing information to anyone who  
20 presents for the November general election with  
21 the information for acceptable forms of ID and  
22 then getting signed acknowledgement from those  
23 individuals that do not have that ID, and we  
24 will be reaching out to them in the same way  
25 that we will be reaching out after the primary.

1                   By that time we should have our  
2                   outreach team in place and we might have  
3                   additional efforts that we will employ for the  
4                   general election.

5           Q.   Are you familiar with the term "no-fee photo  
6           ID"?

7           A.   I am.

8           Q.   When did the no-fee photo ID provided for in  
9           H.B. 589 become available in North Carolina?

10          A.   January 2nd.

11          Q.   Do you know how many North Carolinians have  
12          acquired a no-fee photo ID since January 1st?

13          A.   Approximately 275, 280.

14          Q.   Do you know how many actually applied for  
15          those?

16          A.   I believe -- and I'm basing this on the  
17          testimony of Commissioner Thomas before --  
18          before the Joint Oversight Legislative  
19          Committee, I believe that they have only had  
20          one person that had applied and was not  
21          provided one and it was because that person  
22          already had one, I believe. I believe that's  
23          the only case.

24          Q.   Okay. And with those numbers I probably can  
25          anticipate the answer to this question, but

1           have you received any complaints about that  
2           process?

3           A.   No.

4           Q.   Do you know how much money the State has spent  
5           to date on these no-fee photo IDs?

6           A.   We are reimbursing DMV I think it is around \$2  
7           and -- close to \$2.50 to \$2.60 per ID so that  
8           would be times the 280. That's what would have  
9           been spent on the photo ID to date.

10          Q.   In terms of budgeting, has the State Board  
11          budgeted -- how much they expect to spend on  
12          these no-fee photo ID?

13          A.   We have the funding in the million dollars, and  
14          so what we have done is we are receiving  
15          invoices from -- we have not done a specific  
16          budget. We intend to reimburse DMV, you know,  
17          with the funding that we have, and if we have  
18          to ask the General Assembly for more, we will  
19          do that.

20          Q.   I did want to follow up on one question.  
21          Earlier today you had mentioned you had begun  
22          the hiring process for some outreach positions.  
23          And just to get some specifics on this, I  
24          believe you indicated that -- have you hired  
25          one or two people in that space?

1 A. We have hired one PIO and one outreach member.

2 Q. And can you tell us the name of the PIO?

3 A. Yes. Josh Lawson.

4 Q. And can you tell us the name of the outreach  
5 individual that's been hired so far?

6 A. Todd Batchelor.

7 Q. Todd Batchelor.

8 And how many other slots are you  
9 planning to hire for within that function?

10 A. We will have an additional four -- am I  
11 right -- three -- three members of the  
12 additional outreach team members, and then we  
13 will be hiring a business analyst to help us  
14 with the data for helping us identify who we  
15 need to be doing outreach with, and then we  
16 have another member of the team. We're hiring  
17 an attorney to help us as well with the  
18 implementation of the bill.

19 Q. And what's your -- do you have a timeframe for  
20 when you are aiming to have those hires made  
21 by?

22 A. I had hoped that those hires would have been  
23 made before today. We're trying to get them in  
24 as quickly as possible. We've had -- we have  
25 made some offers, and due to the money that we

1 can offer, some of those people have decided  
2 not to take the position, so we've had to  
3 repost in a couple of these positions.

4 But we are -- we are -- as quickly as  
5 these close, we are trying to interview and go  
6 through the hiring process as quickly as  
7 possible.

8 Q. And when the first of these individuals being  
9 hired at the end of March, is it fair to assume  
10 then that the public outreach aspect of  
11 implementing H.B. 589 did not begin in earnest  
12 until at least that time?

13 A. I wouldn't say it hadn't begun in earnest. I  
14 think we have taken -- from the beginning, even  
15 without the outreach staff, we've done the  
16 types of things that we thought we could do.

17 Number one, changing our website and  
18 having a prominent presence for that. That was  
19 something that we did without any outreach  
20 staff assisting us.

21 We have been assembling pamphlets and  
22 posters and working on videos without outreach  
23 staff. We put together the statewide voter  
24 guide and made sure that was disseminated to  
25 all households without outreach staff and

1 provided guidance in all of our training  
2 seminars on all of these things to the people  
3 who are going to have to implement it in the  
4 county. So I think we've made earnest efforts  
5 to engage in these despite our lack of our  
6 outreach team.

7 Q. Okay. Getting back to another discussion from  
8 this morning as to idea of long lines or long  
9 wait times, or sometimes that might be the same  
10 thing.

11 A. Yes.

12 Q. Do you -- and I believe you indicated that you  
13 really didn't have a developed notion of what  
14 you would characterize as a long line or a long  
15 wait time. Is that accurate?

16 A. That is accurate. I base that on the fact that  
17 I don't believe our office has gathered data on  
18 that. So it's difficult for me without looking  
19 at data to sort of determine what constitutes a  
20 long line or a long wait.

21 I mean, I think that might have  
22 different definition to different people, but  
23 that is something that I believe is important  
24 and that we -- in the May -- excuse me -- in  
25 the 2013 municipal elections, because we wanted

1 to start doing that, we sent people to some of  
2 the municipal elections to actually calculate  
3 wait times just so we can start having a  
4 baseline so that we can better answer those  
5 questions and know what constitutes long lines.

6 Q. And as the executive director of the State  
7 Board of Elections, do you have a threshold  
8 that you would consider to be an unacceptably  
9 long wait time?

10 MR. FARR: Objection.

11 THE WITNESS: I don't think at this  
12 point I can answer that without trying to do  
13 what we've already started doing is trying to  
14 make -- obtain data and look at what kind of  
15 wait times we're having around the state and  
16 what does appear to be unacceptable and what  
17 can we do when we have those instances. I do  
18 think that's the responsibility that I have,  
19 but I think I've got to obtain data to in order  
20 to sort of make those sorts of  
21 characterizations about long lines and what  
22 constitutes a long line.

23 BY MS. O'CONNOR:

24 Q. Okay. But in terms -- from the perspective of  
25 a voter, do you think that they would expect

1           that the State Board of Elections would have an  
2           idea of what is or is not an acceptably long  
3           wait time?

4                   MR. FARR:  Objection.

5                   MR. BOWERS:  Objection.

6                   THE WITNESS:  I'm not sure what from  
7           the perspective of the voter.  I think how -- I  
8           believe that county boards of elections know  
9           their voters and they know where they're going  
10          to have likely turnout, and we certainly rely  
11          on them to try to plan for that turnout and  
12          sort of assist in that way.

13                   Yes, I do think that we need to be  
14          developing data so that we can have more input  
15          in that with the counties.  Just to date, I  
16          don't think we have the kind of data to provide  
17          that sort of guidance.

18  BY MS. O'CONNOR:

19  Q.  Do you believe that one hour is an acceptably  
20          long wait time for voting?

21                   MR. FARR:  Objection.

22                   MR. PETERS:  Objection.

23                   THE WITNESS:  I really don't know how  
24          to answer that.  It depends.  That -- I've  
25          certainly waited in lines for various things

1 for an hour. I can't say that that's not  
2 appropriate.

3 I think, as I said earlier today, I  
4 think it all depends what's going on in that  
5 polling place, and so it's difficult to put a  
6 time limit on what would be acceptable or  
7 unacceptable without knowing those  
8 circumstances.

9 BY MS. O'CONNOR:

10 Q. Do you think three hours is an acceptable wait  
11 time?

12 MR. PETERS: Objection.

13 MR. FARR: Objection.

14 MR. BOWERS: Objection.

15 THE WITNESS: I think I would have to  
16 answer the same way. I don't think I can  
17 answer that, put a time limit at this point.

18 BY MS. O'CONNOR:

19 Q. Okay. And this is part of this process, but I  
20 have to kind of -- my job here is to ask you  
21 these questions.

22 A. I understand.

23 Q. So as you sit here today, there's no amount of  
24 time that you could tell me is unacceptably  
25 long for a voter to stand in line to vote in

1 North Carolina?

2 MR. FARR: Objection to the form of the  
3 question.

4 MR. BOWERS: Objection.

5 THE WITNESS: I don't think I am in a  
6 position based on the lack of data to give you  
7 an answer on that.

8 BY MS. O'CONNOR:

9 Q. Okay. Do you have an appreciation or  
10 understanding that different socioeconomic  
11 groups may be more or less able to take the  
12 time to vote in person and/or to stand in line  
13 if there are long wait times?

14 MR. FARR: Objection.

15 MR. BOWERS: Objection.

16 THE WITNESS: Do I have an appreciation  
17 that certain socioeconomic groups -- I have an  
18 appreciation that everybody has different lives  
19 and are doing different things and that is, I  
20 guess, based on everyone.

21 So I think that I have an understanding  
22 of that, and I believe that because of that we  
23 do have options for people that are busy. If I  
24 don't have time to go stand in line, I can vote  
25 by mail and I can do it in the privacy of my

1           home, so I do think that there are options for  
2           all of us.

3           BY MS. O'CONNOR:

4           Q. Referring to voting by mail earlier today, and  
5           this kind of came up a few times, with respect  
6           to early voting, I believe there was a point at  
7           which you referred to one-stop voting as  
8           absentee voting.

9           A. Yes.

10          Q. Is that how you view early voting?

11          A. It is absentee, it is part of the absentee  
12          voting process, yes. It's in-person absentee  
13          voting.

14          Q. And that gets to the question I was going to  
15          ask, which is: In contrast to what most people  
16          view as absentee voting or the mailing in of a  
17          ballot, early voting does require the  
18          individual to show up in person to cast their  
19          ballot, correct?

20                       MR. PETERS: Objection to the form.

21                       THE WITNESS: Early one-stop voting  
22                       does require someone to show up, yes.

23          BY MS. O'CONNOR:

24          Q. And in terms of the new voter ID requirements,  
25          what would they do to eliminate any potential

1 fraud with respect to mail-in absentee voting?

2 MR. PETERS: Objection. Who is "they"?

3 MS. O'CONNOR: The voter ID  
4 requirements.

5 MR. FARR: We'll stipulate that there  
6 is no voter ID requirements for mail in.

7 MS. O'CONNOR: I'm asking the witness a  
8 question.

9 MR. FARR: Okay.

10 THE WITNESS: There is not a voter ID  
11 requirement for someone who votes by mail.

12 BY MS. O'CONNOR:

13 Q. So if any voter fraud were to occur with  
14 respect to mail-in voter ID, the voter ID  
15 requirement would have no impact on that?

16 A. I don't think the -- the -- showing the ID  
17 would have an impact on mail-in absentee  
18 voting.

19 Q. And have you reviewed any data or information  
20 about the different -- differing demographic  
21 distribution in terms of who uses mail-in  
22 absentee voting versus other in-person forms of  
23 voting?

24 A. I haven't looked at that.

25 Q. Turning to some voter fraud topics, turn to 6

1 here, some e-mail -- there's no from, so I'm  
2 not sure, but it's to mayorvoller@gmail.com,  
3 Subject, Voter Fraud Memo.

4 Do you see that?

5 A. I do.

6 Q. Is this a document that you've seen before?

7 A. The Document 43363 I've seen. I've not seen  
8 the e-mail that you just referenced.

9 MR. FARR: What Exhibit number is this?

10 MS. O'CONNOR: I am going to mark this

11 Exhibit 51.

12 (WHEREUPON, Plaintiffs' Exhibit 51 was

13 marked for identification.)

14 BY MS. O'CONNOR:

15 Q. This is attaching a memo to Senator Josh Stein

16 from Veronica DeGraffenreid.

17 Do you see that?

18 A. I do.

19 Q. And it says "Our response to your recent

20 inquiry is as follows: Provide the number of

21 instances and the specific types of fraud in

22 each election over the past decade" and then it

23 provides a chart there. I think we actually

24 saw this chart in another exhibit earlier

25 today.

1 A. Let me correct the statement. I've not seen  
2 this memo. I've seen the chart and I've not  
3 seen this memo.

4 Q. Okay. I think we saw it earlier today.

5 In this chart, the "Number of Cases  
6 Referred to District Attorney Office by Year,"  
7 under the column "Voter Fraud Type," other than  
8 the category of "Voting - Impersonation," which  
9 of those fraud types would be eliminated or  
10 reduced by way of a voter ID requirement?

11 A. Well, it depends. I mean, it depends.  
12 Possibly double voting could be something that  
13 could be addressed with a photo ID.

14 Q. How would a voter ID requirement eliminate or  
15 reduce the double -- the occasions of double  
16 voting?

17 A. Well, within a county. If someone -- in  
18 counties that have electronic poll books -- and  
19 a lot of our counties do -- it's possible that  
20 showing an ID unless you are -- I mean, I  
21 think -- I agree it goes down to voter  
22 impersonation or -- you have that, but you also  
23 have someone that could have voted twice,  
24 having an ID could have an impact on that.

25 I have not -- I have not really taken a

1 lot of time to study what effect voter ID will  
2 have on particular types of voter fraud. I  
3 have not studied that.

4 Q. And for what you just described as double  
5 voting, shouldn't those electronic logbooks be  
6 able to have the same effect just by catching  
7 the name as opposed to the using the voter ID  
8 itself?

9 MR. PETERS: Objection.

10 BY MS. O'CONNOR:

11 Q. If it's triggered by the name on the ID,  
12 wouldn't those systems be able to pick that up  
13 even without an ID?

14 MR. PETERS: Objection.

15 THE WITNESS: Possibly. Possibly.

16 BY MS. O'CONNOR:

17 Q. Looking at the category of voting  
18 impersonation, which is -- you would agree that  
19 is the one category that a voter ID would most  
20 directly impact or target within these  
21 categories, correct?

22 MR. PETERS: Objection.

23 THE WITNESS: Based on these  
24 categories, yes.

25 BY MS. O'CONNOR:

1 Q. And within that category, out of all the years  
2 listed here, there's only one instance of voter  
3 impersonation in this chart, correct?

4 A. Based on this chart.

5 Q. Okay. And beyond this chart, as you sit here  
6 today, are you aware of additional instances of  
7 voter impersonation that occurred in  
8 North Carolina?

9 A. I'm not aware of any specific instances. I say  
10 that based on my understanding of how this  
11 chart was compiled.

12 Q. If you turn to the last page of this document,  
13 Number 11 provides the numbers of voters by  
14 party in 2004 and 2008. If you add the totals  
15 of 3.5 million in 2004 and 4.3 million in 2008,  
16 you'd agree that would give you roughly  
17 7.8 million voters as between those two  
18 elections.

19 A. Yes.

20 Q. And comparing the one case of voter  
21 impersonation with 7.8 million voters between  
22 those -- even those two elections, you agree  
23 that's an incredibly insignificant number.

24 MR. PETERS: Objection.

25 MR. BOWERS: Objection.

1 THE WITNESS: I think the number speaks  
2 for itself, but based on that chart, it does  
3 say one. One --

4 BY MS. O'CONNOR:

5 Q. Statistically speaking, one out of 7.8 million  
6 is -- you wouldn't consider that to be a  
7 significant number or a trend by any means,  
8 correct?

9 MR. PETERS: Objection.

10 THE WITNESS: One out of that number,  
11 no, I would not consider one to be a trend.

12 MS. O'CONNOR: Okay. I think we need  
13 to take a break for the tape change.

14 THE VIDEOGRAPHER: Off record at 4:45.  
15 (Brief Recess.)

16 THE VIDEOGRAPHER: On record at 4:59.

17 BY MS. O'CONNOR:

18 Q. Ms. Strach, welcome back.

19 A. Thank you.

20 Q. Turning to Tab 7 of your binder, I am going to  
21 mark that document Exhibit 52.

22 (WHEREUPON, Plaintiffs' Exhibit 52 was  
23 marked for identification.)

24 BY MS. O'CONNOR:

25 Q. If you could take a look at that, please.

1 A. Yes.

2 Q. That is an e-mail from Marshall Tutor, and I  
3 believe you identified him as an investigator  
4 with the State Board.

5 A. Yes.

6 Q. And is he the investigator or are there other  
7 investigators?

8 A. He's the sole elections investigator.

9 Q. And that's a role that you had served  
10 previously?

11 A. Yes, back in 2000.

12 Q. So this e-mail is from him to Veronica  
13 DeGraffenreid, you and Don Wright on October 4,  
14 2013?

15 A. Yes.

16 Q. And Mr. Tutor states here:

17 "After a thorough audit of the  
18 2012/13 possible fraudulent cases sent  
19 to the appropriate District Attorney,  
20 I am recommending we change the year  
21 at the end of the chart to 2012/13.  
22 This may help with confusion by outside  
23 entities."

24 Do you see that?

25 A. Yes, I do.

1 Q. And in terms of the numbers listed there, and  
2 the subject line of this e-mail is "voter fraud  
3 chart." Do you see that?

4 A. Yes.

5 Q. Now, for the categories listed there, felons,  
6 double voters, mail-in absentee fraud, voter  
7 impersonation and non-citizens, there's still  
8 through 2012/2013 a single case of voter  
9 impersonation listed there.

10 A. Correct.

11 Q. Is that consistent with the information that  
12 you have either in your individual or on behalf  
13 of the State Board as to the number of cases of  
14 in-person voter fraud that have occurred  
15 through 2013?

16 A. What I can tell you is that this e-mail was  
17 sent after a conversation that I had with  
18 Mr. Tutor after being provided the chart in  
19 Tab 7. Because --

20 MR. PETERS: Tab 6.

21 MS. O'CONNOR: Tab 6.

22 THE WITNESS: Excuse me. I went to him  
23 because I had questions about the files that  
24 backed up those cases that were referred to  
25 prosecution, and what Mr. Tutor explained to me

1 is that that chart was put together, as you  
2 see, by -- at the request of a legislator and  
3 that what he did was he took any information  
4 that he had in his office and used that to  
5 compile the data. He didn't have a lot of  
6 files on some of these and some of the  
7 information might have been from a county board  
8 of elections.

9 And so what he explained was that not  
10 everything that -- not every allegation of  
11 voter fraud or voter irregularity is reported  
12 to him, that some counties directly report  
13 those matters to their District Attorney. So  
14 he wouldn't have that information on anything  
15 that was reported that he was not made aware of  
16 and that he said he knew there were -- there  
17 were cases -- he knew the counties did do that,  
18 that this was based on information that he had  
19 whether he had gotten a phone call from a  
20 county that said "I sent this particular case  
21 to the District Attorney and this is what I  
22 characterized it as being." He is not  
23 necessarily familiar with what the facts of the  
24 case were.

25 So those characterizations are sort of

1 broad and might not necessarily represent what  
2 the actual facts were and might not be complete  
3 as well because they might not include anything  
4 that all 100 counties might not have been  
5 reporting to him or to our agency.

6 BY MS. O'CONNOR:

7 Q. Okay. Do you view or do you understand the  
8 investigation of voter fraud to be part of the  
9 role and function of the State Board of  
10 Elections?

11 A. Yes.

12 Q. And is that something that the State Board  
13 takes seriously?

14 A. Yes.

15 Q. So to the extent that any information becomes  
16 available to either the investigator or others  
17 at the State Board, that's something that you  
18 would expect that either Mr. Tutor or others  
19 would follow up on, correct?

20 A. It's something I definitely would expect.

21 Q. And that if any allegations of voter fraud  
22 turned out to prove meritorious or suggest they  
23 were meritorious, that's something you would  
24 expect that be referred to the District  
25 Attorney?

1 A. Yes.

2 Q. So in terms of the accuracy of these numbers --  
3 and I realize -- I would say -- let me start  
4 over.

5 In terms of the accuracy of the numbers  
6 listed in Exhibit 6 (sic), recognizing the  
7 potential limitation of information that the  
8 State Board doesn't have access to, is it your  
9 understanding that these numbers would be  
10 accurate insofar as the State Board has access  
11 to that information?

12 MR. PETERS: Objection.

13 THE WITNESS: I'm not sure that I can  
14 answer that question either because what -- and  
15 as you see by the e-mail that Mr. Tutor sent,  
16 the language in the prior memo was changed from  
17 saying "we have done a thorough audit," and he  
18 acknowledged that some of these were, you know,  
19 best estimations on information that he had.

20 So I think that there was a good faith  
21 effort on his part to put together the chart  
22 based on information that he likely had in his  
23 possession, but because he didn't have files  
24 and a lot of it were, as he said, sticky notes  
25 and saying I'm not sure I feel comfortable

1           stating that I agree with the accuracy of that  
2           report.

3       BY MS. O'CONNOR:

4       Q.   Okay.  Was there a waiver process for early  
5           voting hours in the 2010 or 2012 elections?

6       A.   A waiver of hours?

7       Q.   Yes.  And I grossly jumped around here so I'm  
8           nowhere near voter fraud any more.

9       A.   That's okay.  I'm following you.

10      Q.   The question was:  Was there a waiver process  
11           with respect to early voting hours in 2010 or  
12           2012 elections?

13      A.   No, because there was no hours requirement in  
14           2010 or 2012.

15      Q.   Was there a waiver process for early voting  
16           generally speaking in 2010 or 2012 elections?

17      A.   A waiver process to --

18      Q.   As to any other requirements for early voting.

19      A.   There was not any waiver process for -- there  
20           was the implementation plan requirement which  
21           is what would be submitted, but there was no  
22           request for any type of waiver for anything.

23      Q.   Okay.  And there is now a waiver process for  
24           counties to be excused from the hours  
25           requirement for early voting?

1 A. There is a process for hours -- to request for  
2 a reduction in hours based on unanimous votes  
3 of both their county board and the full  
4 five-member State Board.

5 Q. And any event that turns out there are  
6 unacceptably long wait times or unacceptably  
7 long lines or other unexpected or expected  
8 outcomes when early voting hours may be  
9 reduced, does the State Board have the ability  
10 to change that position and require those  
11 locations to add hours if the actual turnout  
12 shows that they're needed?

13 MR. PETERS: Object to the form.

14 THE WITNESS: I'm trying to make sure I  
15 understand your question.

16 The waivers are per election so a  
17 waiver that was granted for the primary does  
18 not extend to the general election.

19 If a county wants to make that same  
20 request, they'd have to make it again and the  
21 State Board would then make that determination  
22 based on the facts of the general election.

23 So if that -- if that's your question,  
24 no, the waiver doesn't extend from election to  
25 election.

1 BY MS. O'CONNOR:

2 Q. Okay. I should clarify. My question was  
3 really once you get into the early voting  
4 period, if a county has received a waiver to be  
5 able to reduce the number of hours that it will  
6 be making early voting available, if the wait  
7 times or lines or other factors suggest that  
8 more hours are needed, would the State Board be  
9 able to get that location -- that county to  
10 increase the number of hours for that election  
11 cycle, early voting period?

12 A. I'm not sure that they would -- I think they  
13 would have the ability to come back and discuss  
14 that.

15           It's certainly -- I don't see why the  
16 State Board would not have the option to come  
17 back and ask counties if they -- if they  
18 determined there was a need and the Board met  
19 and determined that that county needed to do  
20 that, I'm not sure that they wouldn't have that  
21 authority to do that.

22 Q. And we saw an earlier exhibit here -- I don't  
23 know which number it was -- that was a memo  
24 from the State Board calling for increasing the  
25 availability because -- and they used the word

1 emergency circumstances that warrant -- that  
2 they believed may warrant increased  
3 availability.

4 Do you recall that exhibit?

5 MR. PETERS: Objection to the  
6 characterization of the exhibit.

7 THE WITNESS: I recall the exhibit, and  
8 it -- based on the minutes, I do believe that's  
9 exactly what the State Board did, and I think  
10 this State Board can do the same thing.

11 BY MS. O'CONNOR:

12 Q. And does the State Board have any plans in  
13 place to monitor, track or otherwise audit the  
14 voting experience in the upcoming elections so  
15 that it would be able to determine when such a  
16 recommendation might be appropriate?

17 A. What we have discussed of doing, since this is  
18 the first time that we're looking at the hours  
19 match, and especially with the reduction that  
20 we have, we do plan on monitoring around the  
21 state turnout and activity and things that we  
22 can use to better provide information to our  
23 State Board members when they're in the  
24 position for the general election to have to  
25 weigh in on those decisions.

1                   So, yes, we will be using -- monitoring  
2                   everything we can so they have as much  
3                   information about the things that could impact  
4                   turnout so that when they makes decisions on  
5                   whether to reduce hours or approve one-stop  
6                   plans, they have all of that information that  
7                   we can provide to them. So, yes, that is  
8                   something that we have -- as staff have  
9                   discussed and the State Board I believe wants  
10                  that information.

11         Q.    Okay.  What does the State Board do to ensure  
12               that the regulations and policies that they are  
13               implementing and administering comply with the  
14               Voting Rights Act?

15         A.    What I believe is that through our counsel at  
16               the AG's office, our counsel or anything we do  
17               or administer, we certainly run by counsel, and  
18               so I think those individuals' jobs and what  
19               they do is provide guidance and assurance that  
20               we are in compliance with the Voting Rights Act  
21               and any other state or federal legislation that  
22               we should be in compliance with.

23         Q.    And does the State Board undertake similar  
24               steps to ensure that the regulations or  
25               policies that the county boards implement also

1           comply with the Voting Rights Act?

2                     MR. PETERS:  Objection.

3                     THE WITNESS:  Yes.  Well, the counties  
4           provide -- certainly do consult with our office  
5           and they do receive guidance on how they're  
6           administering from our office.

7                     So, yes, I believe that we definitely  
8           have oversight of what they're doing in their  
9           implementation and administration.

10          BY MS. O'CONNOR:

11          Q.  In that same vein, what does the State Board do  
12           to ensure that the policies and regulations  
13           that they are administering comply with the  
14           Voting Rights Act specifically as to the impact  
15           of those regulations or policies on different  
16           racial groups?

17          A.  I'm not sure that I can specifically state -- I  
18           guess I would have to answer that in the same  
19           way is I think that we rely on our counsel to  
20           advise us that any policies that we are  
21           undertaking or providing out to our counties  
22           that we are in compliance with all federal and  
23           state regulations that we are supposed to be in  
24           compliance with.

25          Q.  And as you sit here today, is it your

1           understanding that the policies and regulations  
2           that you have in place today do comply with the  
3           Voting Rights Act?

4       A.   I believe --

5                   MR. PETERS:  Objection to the extent it  
6           calls for a legal conclusion.

7                   THE WITNESS:  I have no reason -- I  
8           have not been advised from our legal staff that  
9           they do not, so I assume that they do.

10                   MS. O'CONNOR:  Okay.  That's all I have  
11           for you today.

12                   MS. FROST:  Can we go off the record.

13                   THE VIDEOGRAPHER:  Off the record at  
14           5:13.

15                   (Discussion held off the record.)

16                   THE VIDEOGRAPHER:  On record at 5:16.

17                                   EXAMINATION

18       BY MS. FROST:

19       Q.   Good afternoon.  My name is Elizabeth Frost.

20           I'm with the law firm Perkins Coie, and I  
21           represent the Duke intervenor plaintiffs in  
22           this litigation.

23                   I am just going to start by asking you  
24           a few questions about how voter registration  
25           works in North Carolina.

1                   Now, assume that I meet all the  
2                   qualifications for voting in North Carolina. I  
3                   live here in Raleigh; I have for the last  
4                   30 days. I'm a U.S. citizen. I'm over 18, and  
5                   I'm not serving probation for a felony  
6                   conviction. You get the idea.

7                   I need to get a new driver's license.  
8                   So I gather up whatever I need to get that. I  
9                   go to the DMV. I get my license.

10                  Am I also going to be able to register  
11                  to vote at that time?

12                  A. Yes, you are.

13                  Q. And how does that work?

14                  A. How does the DMV process work?

15                  Q. Does the DMV forward my registration to the  
16                  State Board of Elections?

17                  A. That registration is uploaded to our database.  
18                  We grab that data from DMV on a nightly -- it's  
19                  a nightly upload that we grab that. So you  
20                  register, we should know about it the next day.

21                  Q. So it's an automated process?

22                  A. Yes.

23                  Q. So now I'm registered to vote and election time  
24                  is nearing. What else do I need to do to  
25                  effectuate my registration?

1 A. You registered to vote. If this is your first  
2 time voting in person, if you provided your --  
3 and you likely have your driver's license  
4 because you showed that to DMV so you likely  
5 just need to show up and vote.

6 Q. So I don't need to do anything else to vote?

7 A. No.

8 Q. How do most people register to vote for the  
9 first time in North Carolina. Do you know?

10 A. I don't.

11 Q. Is it possible that more than half use the DMV?

12 A. I could not give you specific numbers. I know  
13 we get a lot of voter registration from DMV.

14 Q. Do you know if the DMV is the most popular way  
15 to register to vote in North Carolina?

16 A. I do not know specifically if that is the case  
17 either. It is -- we get a lot of registrations  
18 from DMV.

19 Q. Have you -- I guess I can assume from your  
20 answers that you haven't done and you're not  
21 aware of any studies that have shown how people  
22 tend to register to vote in North Carolina.

23 A. I personally have not done any studies, and I  
24 am not aware of such studies.

25 I do know that we have that data,

1           though, and it's certainly something I could  
2           look at.

3           Q.   And I assume, and maybe I'm wrong, that based  
4           on your answers you have not done and you're  
5           not aware of any study as to how folks are  
6           likely to register to vote now that same-day  
7           registration has been repealed.

8           A.   I have not -- as I said, I've not done those  
9           studies so I couldn't speak to that.

10          Q.   Are you familiar with the term  
11          "pre-registration"?

12          A.   I am.

13          Q.   What does that term mean to you?

14          A.   It means a process that I believe was put into  
15          law in 2009 or '10 that allowed individuals  
16          that, when they turn 16, they could  
17          pre-register, and a lot of it was at the DMV,  
18          that they could pre-register and that they  
19          would not be registered until they were 18, but  
20          there's a process that our statewide  
21          information management system would hold that  
22          information until the time that individual was  
23          eligible and then they would go through the  
24          verification process.

25          Q.   And you're aware that House Bill 589 repealed

1 pre-registration in North Carolina?

2 A. I am aware of that.

3 Q. Who administered pre-registration?

4 A. Well, it is -- it's administered through the  
5 statewide information system, but the counties  
6 actually administer it through carrying out the  
7 verification process with the voters that have  
8 pre-registered.

9 Q. And did they administer it in partnership with  
10 the DMV?

11 A. Yes. Well, they do that with data that we get  
12 from DMV that's in the statewide information  
13 management system.

14 Q. And other agencies that registered people to  
15 vote?

16 A. Yes.

17 Q. So if a young person came in to the DMV and got  
18 their license when they were 16, they would  
19 have then had the opportunity to pre-register  
20 to vote when they got that license?

21 A. Yes.

22 Q. But -- and I think you just said this but I  
23 want to make sure I understand. A person who  
24 pre-registers at the DMV, they weren't actually  
25 registered to vote yet?

1 A. Correct.

2 Q. They're not actually registered until they're  
3 18?

4 A. Correct.

5 Q. And at the point they turned 18, what would  
6 happen then? How would they become registered?

7 A. The way -- the way that I have -- I understand  
8 the system to have worked when we had  
9 pre-registration is these individuals -- that  
10 the data would be put into this  
11 pre-registration queue into our statewide  
12 database.

13 At a point, a certain number of days  
14 before that person -- the system recognized  
15 when that person would be eligible, so if that  
16 person was going to be eligible to vote in a  
17 general election, they'd also be -- even though  
18 they didn't turn 18, they would be 18 by the  
19 general election, they would be allowed to vote  
20 in that primary even though they weren't 18.

21 Our system recognized that a certain  
22 number of days -- and I apologize, I think it  
23 might have been 45, but I'm not sure of the  
24 exact number of days, the system recognized,  
25 okay, these people are going to be eligible for

1 the general election, we now need to put them  
2 through the verification process.

3 So what would happen would be that the  
4 pre-registrant would be mailed a voter  
5 registration card. That's the verification  
6 mailing to the address on the -- that they  
7 registered with when they got their driver's  
8 license or pre-registered.

9 Q. And it sounds like -- was that system  
10 automated?

11 A. Yes, it was automated from the fact that the  
12 system identified when these people would be  
13 eligible and notified the county board, hey,  
14 these people are ready to go through the  
15 verification process.

16 Q. You answered a lot of my questions so I'm  
17 just -- I don't want to go over them again.

18 So other than turning 18, is there  
19 anything else that a young person who used the  
20 pre-registration program to register would have  
21 to do to effectuate their registration?

22 A. Other than turning 18?

23 Q. Exactly.

24 A. No. If they -- it would -- other than if they  
25 registered somewhere else where they didn't

1 provide a driver's license or a Social Security  
2 number, they would have to show HAVA ID when  
3 they presented to vote. They would have to --  
4 you know, like any voter, this would -- process  
5 would go into effect with the verification  
6 process. They would have to go through that  
7 verification process and the mailing would not,  
8 you know, need to be returned undeliverable and  
9 they would have to be then deemed a registered  
10 voter.

11 Q. But assuming they lived at the same address --

12 A. Yes.

13 Q. -- there were no other affirmative steps they  
14 would have to take?

15 A. No.

16 Q. And if they registered through the DMV,  
17 obviously the DMV has their driver's license so  
18 they don't have to show and ID the first time  
19 they show up to vote?

20 A. Correct.

21 Q. Now, other than through the DMV, what are other  
22 ways that young voters might have  
23 pre-registered?

24 A. Some of them sent voter registration  
25 applications I think directly to the county

1 boards of election. I think there might have  
2 been drives at high schools that were done. I  
3 mean, they could have registered at other  
4 agencies.

5 Q. Okay. What other agencies are you thinking of?

6 A. Well, I mean, they could have registered if  
7 they -- at social services, any other agency  
8 that provides voter registration forms for  
9 them.

10 Q. And all of the ways that an adult could  
11 register, a person -- a young person could  
12 pre-register through all of those means?

13 A. Yes.

14 Q. I am going to hand you a document that was  
15 produced by the State Board of Elections and  
16 bears Bates number SBE-P-00000618. I think  
17 I've got the right amount of zeros there. And  
18 I am going to ask the court reporter to mark it  
19 as Exhibit 53.

20 (WHEREUPON, Plaintiffs' Exhibit 53 was  
21 marked for identification.)

22 BY MS. FROST:

23 Q. Are you familiar with this document?

24 A. I am not familiar with this specific document,  
25 but I recognize this as one of our SRS

1 documents that is required for any updates to  
2 our voter registration, our SEIMS software.

3 Q. And is this document titled "Software  
4 Requirements Specification for Preventing  
5 Preregistrations"?

6 A. That's what it's entitled.

7 Q. So is it fair to assume that this document  
8 includes software requirements that updated  
9 your system in order to prevent  
10 pre-registrations after House Bill 589 was  
11 enacted?

12 A. I have not seen this document, and I don't see  
13 a date on it.

14 Q. Let me draw your attention to the second page.  
15 If you look at the top.

16 A. Yes.

17 Q. And what's the date there?

18 A. 8/8/2013. Is that the date you're looking at,  
19 finalized SRS?

20 Q. What does that mean, finalized SRS?

21 A. This is a document that -- Elise McKnight is a  
22 business analyst. She is a staff member in our  
23 office that interprets business requirements  
24 for IT to make changes to our software. So  
25 this -- an SRS document is how she defines

1           these business requirements so that the  
2           developers can make the change.

3       Q.   Okay.  So what happens to this document after  
4           she finalizes it?

5       A.   She finalizes and it's signed off, it's given  
6           to the IT developers and then they implement  
7           the changes.

8       Q.   And who signs off on it?

9       A.   Well, the signatures on the front is you've got  
10          to have the IT manager, which is probably going  
11          to be -- the manager of the IT section is going  
12          to be overseeing the actual changes that are  
13          going to be made.

14                 The CIO signature, that's going to be  
15                 our IT director.  That's going to be Marc  
16                 Burriss.  He's going to sign off on it.

17                 The business analyst is going to be  
18                 Elise McKnight.  She's our only business  
19                 analyst currently.

20                 The Admin/CF signature is the person on  
21                 either the admin staff in the election support  
22                 section or if it's a campaign finance change  
23                 and the campaign finance changes, that person  
24                 that is working on and requesting the change be  
25                 made.

1 I don't know about the user  
2 representative signature. I don't know that  
3 I've ever seen that signed.

4 Q. So typically how long between when one of these  
5 documents is finalized are these changes  
6 implemented in your system?

7 A. That is -- it's based on what is involved in  
8 the change. I mean, that is something that  
9 Marc Burriss could answer far better than I  
10 could, but based on being a user end, it  
11 depends on how involved the change is.

12 So once these documents are finalized,  
13 they go to the developers and then they -- it  
14 becomes part of their process based on the  
15 other things that they have to implement as  
16 well.

17 Q. Do you know if your system has been updated to  
18 account for the repeal of pre-registration?

19 A. I believe that it has.

20 Q. Do you know by when it was updated?

21 A. I do not know the specific date, but I believe  
22 that it has been.

23 Q. Do you have an estimate as to how long ago that  
24 might have been?

25 A. I don't.

1 Q. Do you know who would know?

2 A. Marc Burriss.

3 Q. Marc would know. All right.

4 I am handing you a document that I am  
5 going to ask the court reporter to mark as  
6 Exhibit 54.

7 (WHEREUPON, Plaintiffs' Exhibit 54 was  
8 marked for identification.)

9 BY MS. FROST:

10 Q. This document looks a lot like the last one we  
11 looked at, doesn't it?

12 A. It is. It's another one of these SRS  
13 documents.

14 Q. What is the title of this one?

15 A. It is "Software Requirements Specification for  
16 New VRC "Underage" Incomplete Reason and  
17 Letter."

18 Q. Do you know what that means?

19 A. I believe what that means is that this was the  
20 SRS document to deal with the change where if  
21 someone registered and was not qualified by  
22 age, we would then send them -- the reason they  
23 would get an incomplete -- they would get a  
24 letter to notify them of that, I believe that  
25 that's what this document is for. I believe.

1 I have not seen this document, so that's --

2 Q. Fair enough.

3 And would this set up another automated  
4 system?

5 A. If it's an SRS document to be a change to be  
6 put into SEIMS, more than likely -- I can't say  
7 whether it's a totally automated process, but  
8 it would be something that a change to the  
9 system to assist the counties in their  
10 responsibilities.

11 Q. So the system would at least do some of the  
12 work?

13 A. Yes.

14 Q. And can you turn to page 2.

15 A. Yes.

16 Q. What's the date up on top in the same place we  
17 were talking about with the last document?

18 A. It is 8/8/2013.

19 Q. And again, that says "Finalized SRS"?

20 A. That means the requirements are finalized.

21 And if you get a chance to talk to Marc  
22 Burris, he doesn't do anything without this  
23 document finalized.

24 Q. So again, you don't know when these changes  
25 were finalized?

1 A. I don't. I don't.

2 Q. But Mr. Burris should be able to tell?

3 A. He should be able to tell you.

4 Q. Do you believe these changes have been  
5 finalized?

6 A. I do believe they have been.

7 Q. When did the repeal of pre-registration become  
8 effective?

9 A. I probably need to look back at the bill on  
10 that.

11 Q. I'll do you one better, I'll give you a  
12 numbered memo. How's that?

13 A. Thank you.

14 Q. I am handing you a document that I will ask the  
15 court reporter to mark as Exhibit 55.

16 (WHEREUPON, Plaintiffs' Exhibit 55 was  
17 marked for identification.)

18 BY MS. FROST:

19 Q. Are you familiar with this document?

20 A. I am familiar with this document.

21 Q. In fact, it has your name at the top, doesn't  
22 it?

23 A. It does.

24 Q. And can you tell me when pre-registration was  
25 repealed, when the repealment of

1 pre-registration was effective?

2 A. This is -- this was the September 1st, I  
3 believe, repealed effective September 1st, yes.

4 Q. And what happened to the applications of  
5 underage voters who pre-registered before that  
6 date but hadn't yet turned 18?

7 A. I need to familiarize myself again with this  
8 process.

9 Q. Take your time.

10 A. Right. As this memo states is if there were  
11 existing -- if people had submitted  
12 pre-registrations prior to the repeal date,  
13 they still would be -- would be processed as a  
14 pre-registration.

15 Q. And I think you said earlier that what happened  
16 to those applications is they went into  
17 something called the pre-registration queue?

18 A. Yes.

19 Q. And so these applications would go into the  
20 pre-registration queue?

21 A. Correct.

22 Q. Or rather, let me correct that, would sit in  
23 the pre-registration queue?

24 A. Yes.

25 Q. And they will remain there until the applicant

1 turns 18; is that correct?

2 A. Right. They would go through the same process  
3 that the other pre-registration applicants went  
4 through. At the same time period that the  
5 verification would have started for them, it  
6 would happen with these as well.

7 Q. Do you know how many people had  
8 pre-registration applications pending at the  
9 time that pre-registration was appealed?

10 A. I do not know.

11 Q. Do you know who would know?

12 A. Marc Burris could provide you that information.

13 Q. And I expect I know the answer to this  
14 question, but do you know how many people are  
15 still in the pre-registration queue as of  
16 today?

17 A. I do not know.

18 Q. Do you know who could tell me that?

19 A. Marc Burris would be able to tell you that.

20 Q. So let's go back to the days of  
21 pre-registration.

22 A. Okay.

23 Q. If a young person pre-registered to vote and  
24 hadn't turned 18 yet but they showed up at the  
25 polls anyway, would they have been allowed to

1           vote?

2           A. They had pre-registered.

3           Q. They pre-registered. They showed up at the  
4           poll on election day but they're 17-years-old.

5           A. It depends on -- at what election do they show  
6           up. If they're 17 but they will be 18 by the  
7           general election date, they should be -- they  
8           should be able to vote because they would be  
9           eligible -- they would be eligible before the  
10          general election, so yes.

11          Q. And if they're 16 and they show up on election  
12          day, are they going to be allowed to vote?

13          A. They are not going to be allowed to vote.

14          Q. And do you have any idea how many young people  
15          while pre-registration existed showed up at the  
16          polls eager to cast their vote but were turned  
17          away because they were not yet old enough to  
18          vote?

19                       MR. FARR: I would object to the form  
20          of that question.

21                       THE WITNESS: I don't know the answer  
22          to that question.

23          BY MS. FROST:

24          Q. Do you know if anyone has ever looked into  
25          that?

1 A. The only way that we probably -- if that person  
2 wanted to vote a provisional ballot, that  
3 reason should be indicated on that -- in the  
4 provisional data. If they didn't vote a  
5 provisional ballot and the poll worker said,  
6 hey, you're simply not of age and not on the  
7 poll book and they left, there probably is no  
8 way to track that.

9 Q. Have you ever heard of this happening?

10 A. I haven't personally.

11 Q. Are you aware of any instances where someone  
12 over 18 has showed up at an early voting or  
13 election day polling site believing they were  
14 registered only to discover that they actually  
15 were not registered?

16 A. I see that in our provisional data. Yes, I  
17 know that does happen.

18 Q. It probably happens every election, right?

19 A. I am sure that it does.

20 Q. And your office, I'm sure, strives to minimize  
21 confusion surrounding elections, but people get  
22 confused about all kinds of things surrounding  
23 elections.

24 A. We do what we can do to minimize confusion.

25 That's what we do.

1 Q. And I think you've already talked about this,  
2 but I just want to establish this. The  
3 repealment of pre-registration does not affect  
4 people who are under 18 but are going to be 18  
5 by the next general election, correct?

6 A. Right, the repeal of that has no effect. Those  
7 people will still be able to vote.

8 Q. And they can still register to vote?

9 A. And they can still register.

10 Q. And that's just registration. That's not  
11 pre-registration; that's just registration.

12 A. That's just registration.

13 Q. I am going to hand you a document that I am  
14 going to ask the court reporter to mark as  
15 Exhibit 56.

16 (WHEREUPON, Plaintiffs' Exhibit 56 was  
17 marked for identification.)

18 BY MS. FROST:

19 Q. Take a moment and let me know if you're  
20 familiar with this document.

21 A. I'm not familiar with this particular e-mail,  
22 but I certainly have had conversations with  
23 Veronica about this, so I'm familiar with it.

24 Q. And this is an e-mail from Veronica  
25 DeGraffenreid to Barbara Webb on August 4,

1 2013; is that correct?

2 A. Yes.

3 Q. And who's Barbara Webb?

4 A. Barbara Webb works for DMV.

5 Q. And did you have a chance -- it sounds like you  
6 had a chance to read the e-mail.

7 A. Yes.

8 Q. And based on the conversation we just had about  
9 how people who are going to be 18 at the next  
10 election, this is consistent with your  
11 understanding --

12 A. Yes.

13 Q. -- of that?

14 And that's what you told the DMV?

15 A. Yes.

16 Q. And I am going to hand you a document that I am  
17 going to ask the court reporter to mark as  
18 Exhibit 57.

19 (WHEREUPON, Plaintiffs' Exhibit 57 was  
20 marked for identification.)

21 BY MS. FROST:

22 Q. Take a moment to read it and let me know when  
23 you're ready.

24 A. (Witness complying.)

25 Yes.

1 Q. And this is an e-mail -- at least at the top of  
2 the e-mail chain -- from you, correct?

3 A. Correct.

4 Q. And August 30, 2013?

5 A. Yes.

6 Q. To Tina Forsberg?

7 A. Yes.

8 Q. And who's Tina Forsberg?

9 A. I have no idea.

10 Q. Can you read to me what Tina asked you in her  
11 original e-mail?

12 A. "Kim, Can you verify for me  
13 that under that the new VIVA law,  
14 people who will be 18 years of age  
15 by Election Day CAN register (while  
16 they are 17) and that it is only  
17 PReregistration - for those who will  
18 not be 18 by election day, and  
19 therefore, are ineligible to vote  
20 - that is now prohibited?"

21 Q. And what was her response?

22 A. "Tina, you are absolutely right."

23 Q. And that is consistent with the conversation  
24 that you and I have been having?

25 A. Yes.

1 Q. Okay. I am going to hand you a document that I  
2 am going to ask the court reporter to mark as  
3 Exhibit 58.

4 (WHEREUPON, Plaintiffs' Exhibit 58 was  
5 marked for identification.)

6 BY MS. FROST:

7 Q. Take a moment to read the document and let me  
8 know when you're ready.

9 A. (Witness complying.)

10 I've read it.

11 Q. And are you familiar with this document?

12 A. I am not.

13 Q. Does -- do you have any reason to believe this  
14 document -- well, strike that.

15 Is this -- does this appear to be an  
16 e-mail from Amanda Penny?

17 A. Yes.

18 Q. Do you know who Amanda Penny is?

19 A. I do.

20 Q. Who is she?

21 A. Amanda Penny is a staff member in our office,  
22 and she's one of our help desk staff. She  
23 works on our help desk. She assists counties  
24 when they have questions with SEIMS.

25 Q. And the e-mail is to Erica Burton and Gary

1 Hardee. Do you know who those people are?

2 A. Those are also staff members who are help  
3 desk -- staff members that assist counties when  
4 they have questions with SEIMS.

5 Q. So the e-mail text, "Use reasonable  
6 discretion... 17 and a half older from DMV  
7 hold onto it until next year, don't send  
8 letter," is it fair to assume this is advice to  
9 the counties about what they should do with DMV  
10 registration information from the DMV for folks  
11 who are 17 and a half and older?

12 MR. PETERS: Objection.

13 MR. FARR: Objection.

14 THE WITNESS: I don't know. This was  
15 clearly not sent to the counties so I'm not  
16 sure what the context of this is. I just -- I  
17 don't know.

18 BY MS. FROST:

19 Q. And you haven't had any conversations about  
20 this? This doesn't --

21 A. Once again, I'm not sure exactly what  
22 they're -- what is being referred to in this.

23 So I certainly have had conversations  
24 over the repeal of pre-registration and making  
25 sure that we implemented that correctly in

1 SEIMS for the automated reasons. So I'm  
2 not -- I can't say that I haven't had  
3 conversations, but I'm not sure what this  
4 really is referring to.

5 Q. Let's just back up a second. When we were  
6 talking earlier about the process --

7 A. Yes.

8 Q. -- and correct me if I'm wrong, but what I  
9 understood is that if someone registered at the  
10 DMV, their information -- their registration  
11 information is automatically transferred  
12 over -- is it transferred to the county board  
13 of elections or the State Board of Elections?

14 A. Well, SEIMS is a statewide -- it's transferred  
15 to our statewide information system which is  
16 then the county's -- it is provided to -- each  
17 county gets the information for their county.

18 Q. And the counties are then responsible for the  
19 verification process?

20 A. Yes.

21 Q. Okay. I am going to hand you a document that I  
22 am going to ask the court reporter to mark as  
23 Exhibit 59.

24 (WHEREUPON, Plaintiffs' Exhibit 59 was  
25 marked for identification.)

1 BY MS. FROST:

2 Q. Take a moment to read it and let me know when  
3 you're ready.

4 A. (Witness complying.)

5 Yes.

6 Q. And are you familiar with this document?

7 A. I am familiar, yes.

8 Q. In fact, you're copied on this e-mail, correct?

9 A. I am copied on this e-mail.

10 Q. And this is an e-mail from Veronica  
11 DeGraffenreid on Thursday, November 14, 2013?

12 A. Yes.

13 Q. And it's to Barbara Webb?

14 A. Yes.

15 Q. And again, who is Barbara Webb?

16 A. Barbara Webb works for DMV. I'm not exactly  
17 sure of her title. I think she's director of  
18 customer services. She is our primary contact  
19 with DMV with changes affecting the statewide  
20 information system.

21 Q. And this says:

22 "Barbara, We would like to enter  
23 a change request for the DMV voter  
24 registration process. After further  
25 review of H.B. 589 and its provisions

1 eliminating pre-registration, and in  
2 order to ensure that individuals who  
3 are not yet qualified to be registered  
4 do not complete voter registration  
5 applications, we would like to request  
6 that voter registration at the DMV  
7 only be offered to individuals who are  
8 18 years of age and older."

9 Did I read that correctly?

10 A. You did.

11 Q. So we're now a few months past the effective  
12 date of the pre-registration.

13 A. Yes.

14 Q. And on multiple occasions your office has  
15 confirmed that the DMV will continue to  
16 register young voters who will be 18 by the  
17 next election?

18 A. We have in the past. This change request  
19 changed that to that we're asking DMV to offer  
20 only individuals who are 18 years of age or  
21 older.

22 Q. And what prompted this change?

23 A. There were conversations -- I am not sure of  
24 the specific information that occurred, but  
25 there was a concern that people -- individuals

1 were registering at DMV and they were not going  
2 to be 18 by the next election and they were  
3 caught up in believing that they were  
4 registered, and I think that there was some  
5 concern about that.

6 And for -- in order for DMV examiners  
7 not to have to make a determination when they  
8 were assisting someone registering to vote of  
9 whether that person would be eligible by the  
10 next election, I think it became our position  
11 that it would be -- it would work out better  
12 for them just to have individuals that were 18  
13 register through DMV.

14 Q. Okay. Let's unpack that just a little bit.

15 You said there were conversations. Who  
16 were these conversations between?

17 A. It would have been conversations that would  
18 come up probably maybe from -- maybe counties  
19 contacting us, but I think I had the  
20 conversation with Veronica DeGraffenreid. I  
21 think she is the one that talked to me and Marc  
22 Burris about this concern, and it might have  
23 been in conversations as well with DMV.

24 There were -- there were meetings that  
25 our office has with DMV, and so I'm not sure

1 exactly who was involved in the initial concern  
2 about this issue.

3 Q. Okay. So just so I'm clear, as you sit here  
4 today, you don't know or you don't remember who  
5 had these conversations?

6 A. I don't possibly know or remember, right.

7 I can tell you I don't remember and I  
8 might not know. In some of those, I might not  
9 have been part of that.

10 Q. And you don't know what the basis of these  
11 concerns were?

12 A. I have a recollection that the basis that I'm  
13 familiar with is that we had examiners that  
14 were having -- that were registering people  
15 that were not going to be 18 by the next  
16 election; therefore wouldn't be eligible. And  
17 they -- in effect, it was a concern of whether  
18 or not that was pre-registration.

19 Q. And who had that concern?

20 A. Like I said, I think that was -- that was a  
21 concern that was expressed to our office. I  
22 remember Veronica speaking to me about the  
23 concern of whether or not -- of that particular  
24 issue.

25 I'm not sure what prompted it, but I

1 believe that the issue was based on the fact  
2 that if this -- the DMV only offers voter  
3 registration to eligible voters, and so if they  
4 are offering a voter registration to someone  
5 that is coming in to get a driver's license,  
6 the expectation of the person getting that  
7 offer is that that registration will be valid.

8 And so that is -- they were -- we did  
9 not want them in a position of registering  
10 people that we know will not be eligible to  
11 vote.

12 Q. But you're not aware of any specific incidents  
13 or documentation or data that underlie this  
14 decision?

15 A. I'm not saying that doesn't exist.

16 I'm saying there were things that came  
17 up that prompted this. So there may very well  
18 be those things. I don't know if that's what  
19 happened.

20 Q. And you believe Veronica brought this up with  
21 you?

22 A. I believe that she did.

23 Q. Did you ask her any questions about her basis  
24 for wanting to make this change?

25 A. If I did, I don't recall at this time.

1 Q. Now, why couldn't voters just go into the  
2 pre-registration queue with the other voters  
3 that are still sitting there?

4 A. Because pre-registration has been repealed, and  
5 so that is -- they could not because that would  
6 have been after the effective date. And by  
7 that legislation, we were -- our authority is  
8 not to pre-register people, and by going into  
9 that pre-registering queue, you're  
10 pre-registering people.

11 Q. Let me go back to make sure I understand. When  
12 someone registers at the DMV, that doesn't  
13 complete the automated registration process.  
14 That's correct, right?

15 A. That begins the process.

16 Q. Exactly. And as I understand it from your  
17 testimony here today, what happens is that the  
18 system, the State Board -- this information  
19 goes into the system and then the county boards  
20 or the State Board access it to start the  
21 verification process in order to effectuate  
22 that registration?

23 A. Yes.

24 Q. So I guess I don't understand how this is  
25 equivalent to pre-registration what the DMV was

1           doing.

2           A. Because if an individual -- if we get an  
3           application from someone now after the  
4           September 1st and they're not going to be  
5           eligible to vote when they're 18 -- they're not  
6           going to be 18 by the general election, we're  
7           going to deny that request. That's part of our  
8           process because we are not pre-registering  
9           individuals.

10                         So we did not want DMV providing the  
11           opportunity for someone to register when in  
12           fact they're going to be denied and we know  
13           that they will be denied.

14           Q. But I thought we had established that people  
15           who are going to be 18 by the time the general  
16           election rolls around are qualified to register  
17           to vote.

18           A. They are. There are -- there -- actually,  
19           though, there are statutory times that they can  
20           register to vote prior to becoming eligible,  
21           and I need to refresh my memory what those time  
22           period -- the time period is, but it is not --  
23           when that -- whenever that time period is, they  
24           would go -- they would not go into any  
25           pre-queue. They would go -- then go straight

1           into the verification process just like any  
2           other voter.

3           Q. So given that, did you consider any other  
4           approach to this than telling DMV not to  
5           register anyone who was under 18 years old?

6           A. I'm not sure how I can answer that other than I  
7           believe that we had conversations and we looked  
8           at all of the ways that we felt we could best  
9           implement this, and that was what we decided  
10          was the most appropriate thing to do with  
11          respect to the DMV.

12          Q. Who did you have those conversations with?

13          A. I believe I had them with Veronica and Marc  
14          Burris.

15          Q. Anyone else?

16          A. Actually on this particular issue, I believe,  
17          that we had discussed this, we might have had  
18          with our counsel at that time Susan Nichols,  
19          not at this time that we discussed this issue.

20          Q. Do you know when those conversations would have  
21          taken place?

22          A. It would have certainly taken place prior to  
23          this November 14th date, but I couldn't tell  
24          you specifically when they happened.

25          Q. Do you know how many conversations you had

1 about this issue?

2 A. I don't remember how many. I do recall having  
3 conversations about this issue, but I couldn't  
4 speculate how many exactly we had.

5 Q. And you said you believe you looked at other  
6 options; is that correct?

7 A. I believe that we discussed -- we had  
8 discussions about what our options were, and  
9 our options were we had to ensure that we were  
10 not still have implementing pre-registration  
11 after that legislation -- after that statute  
12 had been repealed.

13 Q. Do you still have in front of you -- sorry, I  
14 have to dig through this stack -- Exhibit 35?

15 A. Yes.

16 Q. Would you please turn to page 5. And let me  
17 draw your attention to the slide on the bottom  
18 of that page.

19 A. Yes.

20 Q. And that slide says:

21 "Beginning January 2014, only

22 customers who are at least 18"

23 -- and that's in bold, correct?

24 A. Yes.

25 Q. -- "will be offered voter

1 registration services at the DMV."

2 A. Yes.

3 Q. And then beneath that it says:

4 "17 and a half year olds who

5 may be eligible to register to vote

6 beginning on February 10, 2014,

7 will need to complete a voter

8 registration application by some

9 other source."

10 A. Yes.

11 Q. So your decision was not to prohibit anyone

12 from registering people under 18; it was just

13 to prohibit the Department of Motor Vehicles

14 from accepting registration applications from

15 anyone under 18?

16 MR. PETERS: Object to form.

17 THE WITNESS: The reason our position

18 was taken is because we didn't want DMV

19 examiners offering registration to people that

20 would not be eligible to vote.

21 BY MS. FROST:

22 Q. Why is the DMV different from any other entity

23 that registers voters?

24 A. Well, because of the number of examiners

25 that -- as you talked about the popularity of

1 registering to vote when you go and have some  
2 sort of activity at your DMV, there's a lot of  
3 voter registration activity that goes on there.

4 Q. So are you saying that you decided to implement  
5 this policy with the DMV because it was the  
6 most popular way to register?

7 A. No. No. I say that because it was based on  
8 the number of people -- number of examiners  
9 that are having to provide this service across  
10 the state to people that are presenting and  
11 needing DMV services and getting registration  
12 information from DMV.

13 And so we believed that this was the  
14 best way that we could implement this so that  
15 people would not be given the opportunity to  
16 register when they were not eligible to  
17 register.

18 Q. But you weren't concerned about people being  
19 given that opportunity to register through  
20 other means, just through the DMV?

21 MR. PETERS: Object to form.

22 THE WITNESS: I don't necessarily know  
23 that we had discussed that. This was just --  
24 DMV is an automated system that comes into our  
25 statewide database, unlike other means, and so

1 I think that's why this was a particular  
2 concern.

3 BY MS. FROST:

4 Q. So I believe, and correct me if I'm wrong, but  
5 when Mr. Cooper was asking you questions, you  
6 told him when the county board of elections  
7 receives a county registration form, it makes a  
8 tentative decision about that registration,  
9 correct?

10 A. Correct.

11 Q. So if the county board of elections got a  
12 registration form from the DMV and it  
13 determined that a voter was not of age, they  
14 wouldn't register the voter, correct?

15 A. No. They would deny them.

16 Q. And it's not hard to determine from a voter  
17 application form whether a voter is of age, is  
18 it?

19 A. I wouldn't say that it's hard, no.

20 Q. In fact, there's a box to check on the voter  
21 application form that says "Are you going to be  
22 18 by" -- I'm paraphrasing, but by the date of  
23 the next election; is that correct?

24 A. There is a box that says that.

25 Q. Okay.

1           MR. PETERS: I think we need to point  
2 out our recollection of the judge's scheduling  
3 order was the depositions were to a limit of  
4 seven hours, and I believe we have reached  
5 seven hours.

6           I know there were a couple of other  
7 things, and we're willing to have a little bit  
8 of leeway here, but --

9           MS. FROST: I'm almost done here. I  
10 think I have 10 --

11          MR. PETERS: That's what the judge  
12 said.

13          MS. FROST: I think I have 10 to  
14 15 minutes, but I think that given the amount  
15 of people in this case that we would go to the  
16 judge -- if you guys are not willing to take a  
17 little extra time --

18          MR. PETERS: Like I said, we're willing  
19 to be reasonable about it, but we have reached  
20 the limit of what the judge said and the judge  
21 knew how many people were in this case when she  
22 set the limit, so I think --

23          MR. FARR: Which the intervenors agreed  
24 to be bound by the rules the judge set.

25          MR. PETERS: So we're willing not to

1 stick to the seven hours and go a little bit  
2 further as long as everyone else is trying to  
3 wrap up as quickly as they can.

4 MS. FROST: I will wrap up quickly. I  
5 have very little left.

6 I am going to hand you a document that  
7 I am going to ask the court reporter to mark as  
8 Exhibit 60. Actually, wait a minute. Let me  
9 draw that back for a minute.

10 Okay. I'll give you another document.

11 I'm going to ask the court reporter to mark  
12 this as Exhibit 60.

13 (WHEREUPON, Plaintiffs' Exhibit 60 was  
14 marked for identification.)

15 BY MS. FROST:

16 Q. Take a moment to read it and let me know when  
17 you're ready.

18 A. (Witness complying.)

19 Yes.

20 Q. Are you familiar with this document?

21 A. I'm not.

22 Q. Is this an e-mail from Barbara Webb to Veronica  
23 DeGraffenreid?

24 A. It is.

25 Q. And it's dated Monday, November 25th?

1 A. It is.

2 Q. And we talked a little bit about the e-mail

3 that's below -- or sorry, maybe we didn't.

4 Strike that.

5 You said that you thought it's possible

6 you talked to the DMV about this change before

7 it was instituted; is that correct?

8 A. I don't think I directly talked to the DMV. I

9 think Veronica had conversations with DMV.

10 Q. And in this e-mail Barbara Webb, who we

11 established is at the DMV, her response of

12 Veronica telling her about this change:

13 "Are you positive? This is a

14 reversal of the attached e-mail

15 string. This will impact

16 programming, testing and a policy

17 change for the examiners."

18 Is that correct?

19 A. Yes.

20 Q. Before this State Board of Elections decided to

21 make this change, did you do any investigation

22 into the cost of this change?

23 A. We didn't.

24 Q. And did you consider or did you do any

25 investigation or analysis of the number of

1 voters it might affect?

2 A. I don't think we did.

3 Q. Did you issue a numbered memo about this policy  
4 change?

5 A. I am not sure if we did or not.

6 Q. And are you concerned that this policy change  
7 could cause confusion among young voters who  
8 might show up at the DMV and be turned away and  
9 think that they cannot register at all?

10 A. I would say this: This was a change that we  
11 tried to implement trying to make sure that we  
12 were not causing confusion with people being --  
13 thinking they were registered when they were  
14 not. If we see that that is a problem, then we  
15 will certainly look at a change to address  
16 that. We are certainly open absolutely to  
17 dealing with that.

18 Q. Are there any other categories of voters for  
19 people who registered to vote in North Carolina  
20 who will not be allowed to do it through the  
21 DMV?

22 A. No.

23 Q. I just have a few quick questions about the  
24 change in the House Bill 589 to the discretion  
25 to local county boards of election to keep

1 polls open an extra hour on election day.

2 A. Okay.

3 Q. Do you know in the past when that discretion  
4 was used by the local county boards of  
5 election?

6 A. I -- in the past when that was used, I don't  
7 have specific recollection.

8 I just -- I had a general recollection  
9 of being part of some board meetings where  
10 counties might have requested that from the  
11 State Board, but that's -- that's the extent of  
12 my knowledge on that.

13 Q. Okay. To be clear, and I could be wrong, you  
14 know a lot more about this than I do, but I  
15 believe the former policy actually asked the  
16 county boards to do it without requesting -- to  
17 keep the polls open an extra hour on election  
18 day without requesting permission from the  
19 State Board of Elections.

20 Is that your understanding?

21 A. I'm not sure about that.

22 Q. Are you aware that House Bill 589 changed the  
23 law so now the county board of elections have  
24 to request permission from the State Board of  
25 Elections?

1 A. I do know that.

2 Q. What is the State Board of Elections's plan for  
3 how to deal with this?

4 A. The State Board of Elections is aware of that  
5 and they are aware of that and they know that  
6 they need to be available for those requests to  
7 come in, and I'm sure that they will do that.

8 Q. Have you prepared any guidelines governing --  
9 you or anyone at your office prepared any  
10 guidelines governing that decision?

11 A. No.

12 Q. Are you planning to?

13 A. If the State Board feels like they need to give  
14 guidelines to that, we will absolutely do that.

15 Q. All right. I think I'm done. That's all I  
16 have. Thank you so much.

17 MS. RIGGS: Ms. Strach, can you hear me  
18 from here?

19 THE WITNESS: I can.

20 MS. RIGGS: All right. Excellent.

21 FURTHER EXAMINATION

22 BY MS. RIGGS:

23 Q. During the break, we received notification from  
24 Senator Stein that he was waving privilege with  
25 regard to the exhibit that I showed you that's

1 marked Exhibit 19.

2 A. Yes.

3 Q. Can you also pull out Exhibit 20 that is  
4 related to that?

5 A. 22?

6 Q. Just 20.

7 MR. COOPER: Before you continue, this  
8 is Dave Cooper on behalf of the United States.  
9 I would just like to make it clear on the  
10 record that our position is that these  
11 documents -- is it Exhibit 42?

12 MR. PETERS: 19, I think.

13 MR. COOPER: Exhibit 19 regarding the  
14 survey that we discussed earlier, our position  
15 is that this is not privileged. It was a  
16 communication to Ms. Strach from a member of  
17 her staff relaying communications received from  
18 county boards of elections.

19 We don't believe this is a legislative  
20 communication. So regardless of whether  
21 Senator Stein wishes to assert a privilege, we  
22 don't believe this is privileged, and I just  
23 want to make sure that's clear.

24 Go ahead. Thank you.

25 BY MS. RIGGS:

1 Q. So you have 19 and 20 in front of you?

2 A. I do.

3 Q. Who asked you to perform this study?

4 A. It was based on questions that were posed from  
5 Senator Stein's office wanting to know the  
6 county's perspective of the impact of a  
7 shortened one-stop period.

8 Q. Did Senator Stein or anyone in his office weigh  
9 in on the questions that were presented to the  
10 counties?

11 A. I believe that they just wanted to know as much  
12 as they could about -- I'm not sure if they had  
13 specific questions.

14 I think we discussed what kind of  
15 information that they were looking for. They  
16 wanted sort of an understanding of what the  
17 counties' feelings were about that.

18 Q. Were these -- was this request submitted via  
19 e-mail?

20 A. I remember having a conversation by phone with  
21 one of his staff members, so there could have  
22 been some e-mail communication, but I know that  
23 I had a phone conversation as well about the  
24 specifics of what it was we would be asking.

25 MS. RIGGS: To the -- I'll ask to the

1 extent there were e-mail communications  
2 regarding this request if those can be  
3 produced.

4 MR. PETERS: Sure.

5 BY MS. RIGGS:

6 Q. Then did you ask George McCue to work on this?

7 A. I did.

8 Q. Did anyone else besides George work on this  
9 survey?

10 A. I do not believe they did. I do not believe  
11 they did.

12 Q. Did Mr. McCue take primary responsibility for  
13 drafting the questions in the survey?

14 A. He did.

15 Q. Did you review the questions before they were  
16 sent out?

17 A. I don't think that I did.

18 Q. Do you know, did Don Wright review the  
19 questions before they were sent out?

20 A. If George provided it to him, he might have. I  
21 don't know if he did or not.

22 Q. When did you provide the results of the survey  
23 to Senator -- well, I guess I should ask first:

24 Did you provide the results of the  
25 survey to Senator Stein or his staff?

1 A. I'm sure I did.

2 Q. And how would you have provided that, via what  
3 mechanism? I'm sorry.

4 A. Sometimes information was in hard copy. I'm  
5 not sure how this was provided to his office.  
6 I don't know.

7 Q. Likewise, if you could search to see if there  
8 are e-mails and produce those, if they exist.

9 A. Sure.

10 Q. Did you provide this to anyone other than  
11 Senator Stein?

12 A. I do not believe we did. I believe this was a  
13 request that he made. I don't recall sending  
14 it to anybody else.

15 Q. Did you review -- so looking at Exhibit 20, the  
16 e-mail that George McCue sent to the directors,  
17 it's at the bottom of the first page of  
18 Exhibit 20.

19 A. Yes.

20 Q. It says -- the first sentence says:

21 "The North Carolina General  
22 Assembly is currently considering  
23 law changes that could include the  
24 reduction of the one-stop voting  
25 period."

1                   Did you review that sentence before it  
2                   was sent out?

3           A.   I don't recall reviewing that sentence.  It's  
4           possible.

5           Q.   And this was sent on Friday, June 28th?

6           A.   Yes.

7           Q.   Looking really quickly at this page in  
8           Exhibit 19.

9           A.   Yes.

10          Q.   Do you see that?

11          A.   I do.

12          Q.   This sort of sums up the responses in that  
13          really big spreadsheet.

14          A.   Uh-huh.

15          Q.   And counties were asked about the perceived  
16          cost of a shortened early voting period; is  
17          that right?

18          A.   Yes.  I know that was part of the question.

19          Q.   And this document and the large chart  
20          registered the responses to the counties --

21          A.   Yes.

22          Q.   -- responses from the counties?

23          A.   Yes.

24          Q.   The counties were also asked about the  
25          perceived impact on their overall budget?

1 A. Yes.

2 Q. And this document reflects their responses to  
3 that?

4 A. Yes.

5 MR. FARR: I want to object to the term  
6 of "their responses" and "counties' responses"  
7 because there's no indication in this  
8 spreadsheet who did this work or who's  
9 reporting this information in each county.

10 That's my objection for the record.  
11 You can answer her question.

12 THE WITNESS: I don't know -- I don't  
13 know who responded from each county. It was  
14 based on a survey monkey, so I don't know who  
15 responded from the county, but somebody did on  
16 behalf of the counties that did respond.

17 BY MS. RIGGS:

18 Q. Okay. Let's unpack that a little bit.

19 The e-mail that George McCue sent was  
20 sent to a listserve name, right?

21 A. Right.

22 Q. Who receives those e-mails?

23 A. It depends. The director usually receives  
24 that, but if they have given access to other  
25 staff members in the office, they could be on

1           that list as well, they could get that e-mail  
2           as well.

3           Q. Do you have any reason to believe that  
4           unauthorized people responded to the survey?

5           A. No.

6           Q. That's all I have on this.

7                         MS. RIGGS: I will note that we can't  
8           agree to formally close this deposition because  
9           of the documents that are being withheld  
10          because of legislative privilege pending a  
11          decision on that.

12                        MR. PETERS: Right. Right. And I  
13          wanted to note just for the record, Ms. Riggs  
14          and I had this conversation during a break, but  
15          just so it's clear on the record, I know  
16          that -- and I won't go back to look and see  
17          what number it was, but there was a memo in  
18          here to Senator Stein from January I think  
19          2013, January 11th, I think, and as I indicated  
20          to Ms. Riggs, the reason -- or no, excuse me,  
21          2011, and the reason we did not assert immunity  
22          or privilege as to that is because that  
23          document has been in the public almost I think  
24          since it was issued and so it was apparent that  
25          Senator Stein had waived any privilege or

1 immunity as to that some years ago.

2 MS. RIGGS: Can I ask Ms. Strach one  
3 question about that?

4 THE WITNESS: Sure.

5 BY MS. RIGGS:

6 Q. Are you aware of the State Board -- who made  
7 that document public?

8 A. Who made that document public, I'm not aware.  
9 It was not I.

10 Q. You were not the executive director at that  
11 point?

12 A. Right, so I do not know.

13 MR. COOPER: Are you done?

14 MS. RIGGS: I'm done.

15 MR. COOPER: I'd like to make one  
16 statement for the record. And Ms. Frost  
17 suggested that the deposition should be kept  
18 open due to the complexity and the size of the  
19 cases, and I just want to make you aware that  
20 we have the same view, and we can agree to  
21 disagree for now.

22 And I also would add that there were a  
23 number of occasions in which the witness didn't  
24 seem to know the answers on issues that were  
25 well within our topics, and I also want to make



1 A. They have to state their name and address,  
2 that's correct.

3 Q. Is there any way for the poll worker to know  
4 whether that individual is who they say they  
5 are?

6 A. That -- that is the only thing they have to do  
7 is state their name and address currently.

8 Q. Okay. So there's -- if they don't know the  
9 person, then they have to accept the person's  
10 word that they are who they say they are?

11 A. Yes.

12 Q. Okay. And so would a poll worker know whether  
13 or not an individual was impersonating someone  
14 else under that system?

15 A. Unless they happened to know the individual  
16 that was stating their name and address, they  
17 likely would not know.

18 Q. Okay. And would that -- how would that  
19 potentially change under the new voter ID  
20 requirement that doesn't come into effect until  
21 2016?

22 A. Well, that poll worker would then have the  
23 photo ID of the individual that is stating  
24 their name and address for them to verify.

25 Q. Right. And under the statute, the standard is

1 does the photo ID bear reasonable resemblance  
2 to the voter; is that right?

3 A. That's what the statute states.

4 Q. So if the photo did not bear a reasonable  
5 resemblance to the voter, could that  
6 potentially mean that person is impersonating  
7 the individual who the voter claimed to be?

8 A. A process is set up by the statute of how a  
9 determination is made by precinct officials,  
10 the chief judge and other precinct officials,  
11 and if they determine that individual does not  
12 bear a reasonable resemblance, then there --  
13 you know, it could be that someone was  
14 impersonating.

15 Q. All right. And that information about photo ID  
16 and reasonable resemblance has not been  
17 available to poll workers in North Carolina in  
18 prior elections or indeed it won't be available  
19 to them in the 2014 election, will it?

20 A. Correct.

21 ///

22 ///

23 ///

24 ///

25 ///

1 Q. All right. Thank you. That's all I have.

2 We're good.

3 THE VIDEOGRAPHER: This concludes the  
4 deposition. The time is 6:21.

5 [SIGNATURE RESERVED]

6 [DEPOSITION CONCLUDED AT 6:21 P.M.]

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1 A C K N O W L E D G E M E N T O F D E P O N E N T

2

3 I, KIM WESTBROOK STRACH, declare under the  
4 penalties of perjury under the State of North Carolina  
5 that I have read the foregoing 344 pages, which contain a  
6 correct transcription of answers made by me to the  
7 questions therein recorded, with the exception(s) and/or  
8 addition(s) reflected on the correction sheet attached  
9 hereto, if any.

10 Signed this the day of , 2014.

11

12

KIM WESTBROOK STRACH

13

14

15 State of:

16 County of:

17 Subscribed and sworn to before me

18 this day of , 2014.

19

20

21 Notary Public

22 My commission expires:

23

24

25

E R R A T A S H E E T

Case Name: NAACP vs. McCrory and Related Cases

Witness Name: KIM WESTBROOK STRACH

Deposition Date: Wednesday, April 16, 2014

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Signature

Date

Strach, Kim 20140416

