

1                                    IN THE UNITED STATES DISTRICT COURT  
2                                    FOR THE DISTRICT OF SOUTH DAKOTA  
3                                    WESTERN DIVISION

3	_____	)	Civil Number 12-5003
4	CHRIS BROOKS, FRANCIS	)	
	RENCOUNTRE, GLORIA RED	)	
	EAGLE, SHARON CONDEN,	)	Deposition of:
5	JACQUELINE GARNIER, JENNIFER	)	
	RED OWL, EDWINA WESTON	)	SUE GANJE
6	MICHELLE WESTON, MONETTE TWO	)	
	EAGLE, MARK A. MESTETH,	)	
7	STACY TWO LANCE, HARRY	)	
	BROWN, ELEANOR WESTON, DAWN	)	
8	BLACK BULL, CLARICE MESTETH,	)	
	DONOVAN L. STEELE, EILEEN	)	
9	JANIS, LEONA LITTLE HAWK,	)	
	EVAN RENCOUNTRE, CECIL	)	
10	LITTLE HAWK, SR., LINDA RED	)	
	CLOUD, LORETTA LITTLE HAWK,	)	
11	FAITH TWO EAGLE, EDMOND	)	
	MESTETH, and ELMER KILLS	)	
12	BACK, JR.,	)	
		)	
13	Plaintiffs,	)	
		)	
14	vs.	)	
		)	
15	JASON GANT, in his official	)	
	capacity as SOUTH DAKOTA	)	
16	SECRETARY OF STATE, SHANNON	)	
	COUNTY, SOUTH DAKOTA, FALL	)	
17	RIVER COUNTY, SOUTH DAKOTA,	)	
	SHANNON COUNTY BOARD OF	)	
18	COMMISSIONERS, FALL RIVER	)	
	COUNTY BOARD OF	)	
19	COMMISSIONERS, JOE	)	
	FALKENBUERG, ANNE CASSENS,	)	
20	MICHAEL P. ORTNER, DEB	)	
	RUSSELL, and JOE ALLEN in	)	
21	their official capacity as	)	
	members of the County Board	)	
22	of Commissioners for Fall	)	
	River County, South Dakota,	)	
23	BRYAN J. KEHN, DELORIS	)	
	HAGMAN, EUGENIO B. WHITE	)	
24	HAWK, WENDELL YELLOW BULL,	)	
	and LYLA HUTCHISON in their	)	
25	official capacity as members	)	
	of the County Board of	)	

1 Commissioners for Shannon )  
 County, South Dakota, SUE )  
 2 GANJE, in her official )  
 capacity as the County )  
 3 Auditor for Shannon and Fall )  
 River Counties, and JAMES )  
 4 SWORD, in his official )  
 capacity as Attorney for )  
 5 Shannon and Fall River )  
 Counties, )  
 6 )  
 Defendants. )  
 7 \_\_\_\_\_ )

8  
 9 DATE: July 18, 2012, at 9:00 a.m.

10 PLACE: Gunderson, Palmer, Nelson & Ashmore  
 506 Sixth Street  
 11 Rapid City, South Dakota

12 APPEARANCES:

13 FOR THE PLAINTIFFS: MR. STEVEN D. SANDVEN  
 Attorney at Law  
 14 300 North Dakota Avenue, Suite 106  
 Sioux Falls, SD 57104

15 FOR THE DEFENDANT: MR. RICHARD M. WILLIAMS  
 (Jason Gant) Attorney General's Office  
 16 1302 East Highway 14, Suite 1  
 Pierre, SD 57501

17 FOR THE DEFENDANTS: MS. SARA FRANKENSTEIN  
 18 Gunderson, Palmer, Nelson & Ashmore  
 Attorneys at Law  
 19 506 Sixth Street  
 20 Rapid City, SD 57701

21 I N D E X

22 WITNESS: PAGE

23 SUE GANJE

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4

1 SUE GANJE,  
 2 called as a witness, being first duly sworn, testified as  
 3 follows:  
 4 EXAMINATION BY MR. SANDVEN:  
 5 Q Name?  
 6 A Sue Ganje.  
 7 Q How long have you been the Shannon County Auditor?  
 8 A Well, I was appointed Fall River County Auditor in  
 9 May of 2005. Then by contract, I was the Shannon  
 10 County Auditor.  
 11 Q For Shannon County?  
 12 A Yes.  
 13 Q And for Fall River County?  
 14 A Well, I was appointed as the Fall River County  
 15 Auditor in May of '05.  
 16 Q Okay. Education?  
 17 A High school, two years of college.  
 18 Q What were your two years in and when?  
 19 A Two years were in business in 1979 and '80 -- or '80  
 20 and '81. I guess I graduated in '79.  
 21 Q In what?  
 22 A I graduated in '79 and then went to two years of  
 23 college after that.  
 24 Q And was two years of GE before -- or was there a  
 25 specialized degree?

5

1 A I did not get a degree, no.  
 2 Q Okay. How do you want me to address you today?  
 3 A You're fine calling me Sue.  
 4 Q Okay. And then -- all right. Sue, so do you have --  
 5 I'm going to hand you what's been marked Exhibit 161.  
 6 A Okay.  
 7 (Exhibit Number 161 marked for identification.)  
 8 Q These are your answers that you went ahead and signed  
 9 before a notary on July 13th?  
 10 A Okay.  
 11 Q Yes?  
 12 A Yes.  
 13 Q Have you given a deposition before?  
 14 A I have.  
 15 Q In what?  
 16 A In 2010.  
 17 Q In what case?  
 18 A In the felony lawsuit that I was followed in.  
 19 Q In the Janis matter in Federal Court?  
 20 A That's correct.  
 21 Q Have you ever given another -- have you ever been a  
 22 party to a lawsuit besides this one?  
 23 A No.  
 24 Q This is the first time you've ever been sued?  
 25 A Yes.

6

1 Q In any capacity?  
 2 A Yes.  
 3 Q All right. So how many depositions did you give  
 4 besides the one that you just described in the 2010  
 5 Janis matter?  
 6 A This would be number two.  
 7 Q Yes, ma'am. All right. You look at -- when you look  
 8 at these answers that you went ahead and submitted --  
 9 A Okay.  
 10 Q -- did anyone help you prepare these?  
 11 A No.  
 12 Q You researched all of this information yourself?  
 13 A I did.  
 14 Q And where did you research it from, ma'am?  
 15 A I researched -- the majority of it was through the  
 16 County Commission minutes.  
 17 Q When did you begin your research?  
 18 A I can't tell you.  
 19 Q Was it a couple months ago?  
 20 A In that area, yes. After I received the request.  
 21 Q Okay. You had never researched how many days of  
 22 absentee voting in Shannon County before this  
 23 lawsuit?  
 24 A I didn't specifically research it.  
 25 Q Generally, did you?

7

1 A I generally had an idea of whatever voting we did.  
 2 Q Right. Because you weren't responsible for the  
 3 elections in 2004, correct? You started in 2005?  
 4 A Correct.  
 5 Q All right. So how did you learn about the numbers  
 6 for absentee voting days in Shannon County?  
 7 A I participated in the 2004 early voting.  
 8 Q Oh, you did?  
 9 A I did.  
 10 Q What did you do there?  
 11 A Well, I was the deputy auditor and my supervisor at  
 12 that time was ill so I did physically go to Shannon  
 13 County with the early voting.  
 14 Q Okay. Let's go through your employment history a  
 15 little bit.  
 16 A Okay.  
 17 Q What did you do before 2005 and for how long?  
 18 A I started working at Fall River County in December of  
 19 1983.  
 20 Q What did you get hired in as?  
 21 A I was hired as the election clerk.  
 22 Q Duties?  
 23 A All the duties pertaining to elections. Setting up  
 24 election boards, getting the ballots, doing the  
 25 publications, and whatever else was needed.

1 Q How long did you do that?

2 A **In 1985, I then moved into -- I went through accounts**

3 **payable and then I was the payable clerk and then I**

4 **moved into bookkeeping.**

5 Q All right. So you were working as the election clerk

6 from 1983 to 1985?

7 A **Yes.**

8 Q All right. And then your duties changed in 1985 to

9 accounting?

10 A **Then I was the bookkeeper, yes.**

11 Q From 1985 through what?

12 A **2005.**

13 Q Oh. Twenty years?

14 A **Yes.**

15 Q All right. And you were the bookkeeper for Shannon

16 County?

17 A **We were contracting with Shannon back then, so yes.**

18 Q Okay. What were your bookkeeping duties and for

19 which department?

20 A **We basically do the books for all functions of the**

21 **county.**

22 Q Including elections, the auditor functions?

23 A **Um-hmm. Yes.**

24 Q All right. So were you the one who did the data

25 entry or you prepared -- assisted auditors? What did

1 know their job title.

2 A **It was the county auditor.**

3 Q And then from 1983 to 1985, who did you report to?

4 A **The county auditor.**

5 Q And then from 2005 to present, you've been the county

6 auditor?

7 A **That's correct.**

8 Q So you've been working for or as the county auditor

9 for Shannon County for how many years?

10 A **Well, we're going on close to thirty.**

11 Q Okay. And did Shannon County contract for services,

12 auditing services, election services with Fall River

13 since you began there in 1983?

14 A **Yes.**

15 Q All right. Going back to your answer to

16 interrogatory number 2A, 2004 primary election?

17 A **Um-hmm.**

18 Q You said -- you answered there was no early voting

19 satellite for the primary?

20 A **Yes.**

21 Q Why?

22 A **I can't say.**

23 Q No idea?

24 A **Apparently the commissioners didn't request it.**

25 Q So do you know why the commissioners didn't request

1 you do as bookkeeper?

2 A **Well, we're going back a long time. But we did enter**

3 **tax receipts. Actually, we did a lot of handwork**

4 **back then and apportion out taxes by hand that go to**

5 **-- taxes go to the different entities and different**

6 **funds.**

7 Q So you had a strong working knowledge of how much

8 money was coming into the county from taxable income

9 and other sources, correct?

10 A **At the time I did, yes.**

11 Q From 1985 to 2005?

12 A **Yes.**

13 Q All right. And you knew what the bills for the

14 county were from 1985 to 2005, correct?

15 A **Generally. I can't quote you a figure, but yes, I**

16 **worked with that.**

17 Q But you were very aware of the general financial

18 condition of the county?

19 A **I've always been aware of the financial condition.**

20 Q Since 1983?

21 A **Um-hmm. Well, I was young then, but yes, I've always**

22 **worked with Shannon.**

23 Q All right. So who did you report to? Who was your

24 supervisor during that twenty year period? And I

25 don't need to know the specific person, but I need to

1 it?

2 A **I don't know.**

3 Q Do you recall any conversations in 2004 general

4 election with any of the Shannon County

5 commissioners?

6 A **Are you talking the general now? Are you on B?**

7 Q No. I'm on A, I'm sorry. The primary?

8 A **I don't recall any conversation about early voting**

9 **then.**

10 Q With any Shannon County commissioner?

11 A **No.**

12 Q Or a Fall River County commissioner?

13 A **No.**

14 Q Have you ever had a conversation between you and any

15 individual Shannon County commissioner regarding

16 absentee voting locations in Shannon County?

17 A **I just recall the first time we -- I was involved or**

18 **had a conversation was in B, 2004 election.**

19 Q Okay. When was -- that was the first time you

20 remember talking about absentee voting with anybody

21 on the county commissions was in 2004?

22 A **Yes.**

23 Q All right. Did you think it was unusual that Shannon

24 County residents did not receive or were not able to

25 vote in person in Shannon County?

- 1 **A I don't recall. I don't recall what I thought. I**  
 2 **don't -- no.**  
 3 **Q** Do you remember the first time that you raised the  
 4 issue that Shannon County residents should have the  
 5 same number of in-person voting -- absentee voting  
 6 days in Shannon County?  
 7 **A I do not, no.**  
 8 **Q** Do you remember the last time that you brought that  
 9 up?  
 10 **A I generally wasn't the one that brought that up. I**  
 11 **mean, it's up to the county commissioners to**  
 12 **determine if they're going to have the satellite**  
 13 **office.**  
 14 **Q** Have you ever voiced your opinion on whether or not  
 15 Shannon County registered voters should be able to  
 16 vote in person in Shannon County during the absentee  
 17 voting period?  
 18 **A I know when they discussed it this year in 2012, I**  
 19 **believe I encouraged them to do more than they**  
 20 **originally set. They set two days, I believe.**  
 21 **Q** Right. And I think you're referring to what's been  
 22 marked Exhibit Number 10. These are the December  
 23 2nd, 2011, Shannon County Commission minutes.  
 24 **A Okay.**  
 25 **Q** If you go to page 5, ma'am. It's page 5. And

- 1 they're not numbered.  
 2 **A I see that. Okay.**  
 3 **Q** Fourth paragraph. Do you see where I'm at there on  
 4 page 5? A discussion was held on a letter from  
 5 Steven Sandven?  
 6 **A Sorry.**  
 7 **Q** Second to the last page.  
 8 **A The second to the last is this.**  
 9 MS. FRANKENSTEIN: She's got something different  
 10 than you.  
 11 **A Oh. These are August of '11.**  
 12 **Q** I'm sorry. I gave you the wrong... I'm going to hand  
 13 you my copy. If you go to page 5 there.  
 14 **A Okay.**  
 15 **Q** So you were at that meeting, correct?  
 16 **A I was.**  
 17 **Q** And you were discussing the number of absentee voting  
 18 days that Shannon County residents would receive in  
 19 Shannon County?  
 20 **A The commissioners were discussing that, yes.**  
 21 **Q** Right. And in Lyla Hutchison's deposition, she said  
 22 she proposed two days. Do you remember that?  
 23 **A I think so. I'm not positive, but I think that was**  
 24 **the original discussion.**  
 25 **Q** Tell me everything you remember about that

- 1 discussion.  
 2 **A I just remember them receiving this letter and**  
 3 **discussing when they could be doing it and how long**  
 4 **they'll do it for. And I think -- I can't be**  
 5 **positive, they set two days. I think two days before**  
 6 **each election.**  
 7 **Q** Two days before the 2012 primary election?  
 8 **A I believe so.**  
 9 **Q** Only two days of early voting before the 2012 general  
 10 election in Shannon County?  
 11 **A I think so. I can't be positive, but...**  
 12 **Q** And as far -- you don't know if it was Lyla Hutchison  
 13 proposing that amount?  
 14 **A I just recall the whole commission discussing it. I**  
 15 **can't say for sure.**  
 16 **Q** Were there any other numbers proposed?  
 17 **A Other than what they settled on here or --**  
 18 **Q** Yes, ma'am.  
 19 **A -- or what they determined? I remember telling them**  
 20 **I didn't think two days was enough before each**  
 21 **election.**  
 22 **Q** Why did you say that?  
 23 **A I'm not sure why I said that. We were down there in**  
 24 **'10 and offered more days than that.**  
 25 **Q** Did you say that to the county commissioners?

- 1 **A The only thing I recall saying is I didn't think two**  
 2 **days was enough.**  
 3 **Q** All right. And the reason you're testifying here  
 4 today you didn't think two days was enough is because  
 5 there were more days offered in 2010?  
 6 **A I can't -- I honestly can't say what I was thinking**  
 7 **when they said that. I just didn't think two days**  
 8 **was enough.**  
 9 **Q** Do you think two days is enough today?  
 10 **A I don't think -- I don't know. I'm sorry. But I**  
 11 **don't -- I really go with what they determine, but...**  
 12 **Q** I'm asking about your opinion as the county auditor.  
 13 Do you think two days of early voting or absentee  
 14 voting for Shannon County registered voters in  
 15 Shannon County is enough?  
 16 **A I felt -- I feel that if we had the opportunity and**  
 17 **are able to do more than that, then that's what I**  
 18 **would be comfortable with.**  
 19 **Q** Explain what you mean.  
 20 **A You know, we coordinate between the counties and I**  
 21 **have to -- we have to coordinate in our office to**  
 22 **have the employees and whatnot to be able to go down**  
 23 **there. But we were able to do it in '10 and I think**  
 24 **if we could do -- if we can do it, I think that's**  
 25 **what should be done.**

- 1 Q What do you mean if you could do it? What was  
2 restricting you?
- 3 A **Well, one of the things that restricted was prior  
4 contracts which didn't allow -- it didn't allow  
5 Shannon County to request -- have the funds for us to  
6 be able to bill Shannon County for our daily  
7 expenses, our eight-hour day expenses.**
- 8 Q All right. I'm going to hand you what's been marked  
9 Exhibits Number 16 through 24. I believe these are  
10 the Shannon/Fall River County contracts.
- 11 A **Okay. Do you want this back?**
- 12 Q No, thank you, ma'am. From 2002.
- 13 A **Okay.**
- 14 Q I'm sorry, from 2004 to present.
- 15 A **Okay.**
- 16 Q I think what I heard you just say is that one of the  
17 factors in determining whether or not you consider  
18 two days of absentee voting in Shannon County was  
19 appropriate was based upon coordination between  
20 counties. What did you mean that by that? How do  
21 the counties coordinate to determine how many days of  
22 absentee voting are available in Shannon County?
- 23 A **Well, backing up, it's basically my office is -- it  
24 -- it affects my office. I guess that's my -- that's  
25 always my concern is how my office can coordinate. I**

- 1 **didn't mean between the counties, but I'm -- in my  
2 office, I need to be able to -- I need to be able to  
3 account -- be able to do the functions of our office  
4 and provide that.**
- 5 Q Is it a money thing at all or just office staff or  
6 what do you mean?
- 7 A **It gets into office staff. And office staff if I'm  
8 sending my staff down to Shannon County, then it  
9 creates a shortage in my office in Fall River County.**
- 10 Q All right. So how many days, in your opinion, should  
11 Shannon County registered voters be able to vote in  
12 person in Shannon County?
- 13 A **Well, the state law allows for the six weeks and 46  
14 days prior.**
- 15 Q So how many actual days of early voting is that?  
16 That doesn't include holidays, does it?
- 17 A **No. That excludes weekends and holidays.**
- 18 Q So do you know approximately how many --  
19 A **No.**
- 20 Q Let me finish my question and I'll --  
21 A **All right.**
- 22 Q -- try and wait for you.  
23 A **Okay.**
- 24 Q Approximately, how many absentee voting days did the  
25 Fall River registered voters get in Fall River?

- 1 A **And we're talking currently here, 2012?**
- 2 Q Yes, ma'am.
- 3 A **Well, without recounting, it's 32 or 33 days.**
- 4 Q 32 or 33 days before the special election -- or I'm  
5 sorry, the primary election 2012?
- 6 A **Yes.**
- 7 Q And it's always been that way since you've been  
8 county auditor?
- 9 A **Prior it was six weeks and now we have one day extra,  
10 I think, so...**
- 11 Q Right. It changed from six weeks to 46 days for one  
12 election cycle?
- 13 A **The law changed which affected current and future law  
14 changes again.**
- 15 Q Right. What I'm asking, though, is do you remember  
16 when that extra day was added?
- 17 A **I believe it was during -- I can't say, but I think  
18 during legislation last year.**
- 19 Q You're thinking it was during the 2011?
- 20 A **I don't recall, honestly.**
- 21 Q Okay. But it's your understanding that the absentee  
22 voting period was six weeks from the time you were --  
23 you became auditor in 2005 until last year?
- 24 A **Yes.**
- 25 Q All right. Did Fall River registered voters get 46

- 1 days of in-person absentee voting?
- 2 A **They did.**
- 3 Q During the 2006 election cycle?
- 4 A **2006 was back to the six weeks, I believe.**
- 5 Q All right. So let's just go back one election cycle.  
6 In 2010, how many days of absentee voting did Fall  
7 River folks get in-person in-county?
- 8 A **I can't tell you without a calendar, but in 2006, it  
9 was six weeks of early/absentee voting excluding  
10 weekends and holidays.**
- 11 Q Okay. And same answer for the 2010 general election?
- 12 A **Correct.**
- 13 Q All right. And then for the 2012 primary, there was  
14 32 or 33 days of absentee voting for Fall River folks  
15 in person, correct?
- 16 A **Correct.**
- 17 Q All right. And when did you make that decision that  
18 they would get that number of days of absentee voting  
19 in person in Fall River County?
- 20 A **That's a state law.**
- 21 Q What do you mean it's a state law?
- 22 A **The state law sets out when absentee early voting  
23 starts.**
- 24 Q Okay. So you didn't have to ask anyone for  
25 permission to go ahead and begin preparations for

1 that absentee voting period?  
 2 **A No.**  
 3 **Q** All right. You just knew all of the folks --  
 4 **A Right.**  
 5 **Q** -- in Fall River County get 46 days of absentee  
 6 voting in person at the county courthouse --  
 7 **A Um-hmm.**  
 8 **Q** -- before the primary?  
 9 **A That's correct.**  
 10 **Q** And the general in 2012?  
 11 **A That is correct, yes.**  
 12 **Q** And on election day from 8 to 3?  
 13 **A That law has always been there, but yes.**  
 14 **Q** And you've always applied that law as long as you've  
 15 been a county auditor?  
 16 **A Yes.**  
 17 **Q** In Fall River?  
 18 **A That's correct.**  
 19 **Q** Not Shannon County, though?  
 20 **A No.**  
 21 **Q** Why not?  
 22 **A Commissioners have never set election day as a day**  
 23 **for early voting in Shannon County until 2012.**  
 24 **Q** Did you ever say to the Shannon County Commission,  
 25 we're doing it this way in Fall River, we better do

1 it this way in Shannon County, also?  
 2 **A I did not.**  
 3 **Q** Why?  
 4 **A It's their -- they make that decision and we complied**  
 5 **with the decision they make.**  
 6 **Q** But I thought you said it was state law that Fall  
 7 River folks got to early vote 8 a.m. to 3:00 p.m. on  
 8 election day?  
 9 **A I believe that -- I assume it's a state law. We go**  
 10 **by an election calendar and that has always been**  
 11 **until 3 o'clock on election day.**  
 12 **Q** Wouldn't that same state law apply to the registered  
 13 voters in Shannon County?  
 14 **A I -- in Shannon County, they go by -- we go by the**  
 15 **law that puts the decision on how many days of early**  
 16 **voting is made by the commission.**  
 17 **Q** What law are you referring to?  
 18 **A I can't tell you.**  
 19 **Q** You have no idea?  
 20 **A I know it is on our calendar and that's what we**  
 21 **comply with, but what law it is, I can't say.**  
 22 **Q** You think there's a law that goes ahead and says that  
 23 Shannon County folks can get less days of absentee  
 24 voting in-person in-county than other counties?  
 25 **A No. The only law I'm aware of is that the Board of**

1 **County Commissioners in a contracting county, which**  
 2 **would be Shannon County, if they request the absentee**  
 3 **or early voting -- they request it and we do what**  
 4 **they request.**  
 5 **Q** Did you ever ask anybody this law on 8 a.m. to 3:00  
 6 p.m. for absentee voting in person on election day  
 7 that we've been doing in our county for years and  
 8 years, why aren't we doing that in Shannon County?  
 9 **A I don't recall asking that, no.**  
 10 **Q** You were responsible for all of the elections,  
 11 correct?  
 12 **A I'm responsible for election, yes.**  
 13 **Q** And compliance with election laws?  
 14 **A I comply with election laws, yes.**  
 15 **Q** So why didn't you ask someone if you had to do that  
 16 or not?  
 17 **A I -- I let them -- they make their motion and we go**  
 18 **by what that motion is. And it's probably -- it's**  
 19 **never been discussed with them, I guess.**  
 20 **Q** Right. But you know the county commission only meets  
 21 once or twice a month, correct?  
 22 **A That's correct.**  
 23 **Q** And they only meet for a couple hours, correct, most  
 24 of the time, two to six hours, somewhere in there?  
 25 **A That's correct.**

1 **Q** Once a month?  
 2 **A Yes.**  
 3 **Q** Why did you never put it on the agenda? You do the  
 4 agenda, correct?  
 5 **A I do the agenda, correct.**  
 6 **Q** And the agenda can go ahead and be drafted 24 hours  
 7 before a commissioner meeting, correct?  
 8 **A Correct.**  
 9 **Q** So why didn't you go ahead and make that an agenda  
 10 item, we need to discuss whether or not Shannon  
 11 County registered voters should have absentee voting  
 12 from 8 to 3 on election day like we do over here in  
 13 Fall River?  
 14 **A Shannon County commissioners are also Shannon County**  
 15 **voters. And I would have to assume they know what**  
 16 **voting is, too. You know, honestly, there's -- it's**  
 17 **a logistical issue at the moment with voting early**  
 18 **down there and during -- on the day of the election.**  
 19 **Q** Did you think that was fair that Fall River  
 20 registered voters can vote at the absentee voting  
 21 location on election day but Shannon County  
 22 registered voters could not?  
 23 **A I don't think I've ever had that thought.**  
 24 **Q** You don't think that's fair?  
 25 **A I've never thought that. I didn't make a decision**



24

1 **one way or the other if it was fair or not.**

2 **Q** Here today, I'm asking you, do you think it's fair

3 that the folks over in Fall River County and the

4 registered voters on election day can go cast their

5 vote at their polling place or that absentee voting

6 location and the Shannon County registered voters

7 cannot? Do you think that's fair?

8 **A I don't really have an opinion on that. I mean, they**

9 **could be in Hot Springs and vote. They surely did**

10 **vote down there on election day.**

11 **Q** Right. Let's talk about that a little bit. On

12 December 2nd, 2011 --

13 **A Um-hmm.**

14 **Q** -- this meeting that we're discussing?

15 **A Yes.**

16 **Q** How many days were approved before the primary

17 election?

18 **A The motion they made, I believe, set six days.**

19 **Q** Do you remember what six days those were?

20 **A Where's the minutes?**

21 **Q** Here's the minutes back, Exhibit 10.

22 **A Okay.**

23 **Q** What were the six days that were selected on December

24 2nd, 2011, by the Shannon County Commission for

25 absentee voting in Shannon County before the 2012

25

1 primary?

2 **A May 21, 23, 25, 28, 30 and June 1st.**

3 **Q** All right. May 28th, that was a holiday, wasn't it?

4 **A I can't tell you. I've heard since then that that**

5 **was. I didn't realize that when they set those**

6 **dates.**

7 **Q** Okay. And you knew that those six days that were

8 selected for absentee voting in Shannon County before

9 the election, no voter registration could occur at

10 those absentee voting locations, could it?

11 **A I don't recall what the deadline was, if it was the**

12 **20th or 21st. And the other days, no, they wouldn't**

13 **have been able to.**

14 **Q** Right. This was six days before the election,

15 correct?

16 **A Correct.**

17 **Q** The six days immediately before the election, the six

18 working days or --

19 **A They weren't every working days, the six days prior**

20 **to the election.**

21 **Q** Do you know how those six days were selected?

22 **A You know, I don't. They -- the board made the motion**

23 **and I wrote down the dates that they had.**

24 **Q** Why didn't you go ahead and say, Hey, wait a minute.

25 Fall River gets 32 or 33 days of absentee voting in

26

1 Fall River. Shannon County folks, Shannon County

2 registered voters should get the same thing?

3 **A I can't tell you.**

4 **Q** You don't have any reason why you didn't bring that

5 up?

6 **A I can't tell you why I didn't bring that up.**

7 **Q** All right. Why didn't you bring up those six days,

8 Shannon County Commission, that you selected for

9 early -- for absentee voting in Shannon County, those

10 folks can't get registered on those days. That's

11 outside the registration period. Why didn't you

12 bring that up?

13 **A Well, I didn't bring that up. I can't tell you why I**

14 **didn't bring that up.**

15 **Q** You're the one that's responsible for conducting

16 elections?

17 **A I do conduct the election.**

18 **Q** Right. Not the county commission, correct?

19 **A No. But they were setting dates for the early**

20 **voting.**

21 **Q** But you're the one that's responsible for adhering to

22 all of the election procedures, correct?

23 **A I do, yes.**

24 **Q** So why didn't you say, Shannon County commissioners,

25 come on. We have to conform to these election

27

1 procedures?

2 MS. FRANKENSTEIN: I'll object. This has been

3 asked and answered several times.

4 **Q** Go ahead.

5 **A I can't tell you why I did not say that. I know that**

6 **we distribute voter registrations, we distribute**

7 **deadlines, we have Jean Belt down there, our Lakota**

8 **coordinator, who is there to assist voters. And I**

9 **know those things are happening and I can't say why I**

10 **didn't bring that up.**

11 **Q** Why did Shannon County registered voters only get six

12 days?

13 **A I did not make the decision.**

14 **Q** Do you have any idea why they were restricted to six

15 days?

16 **A I think -- I can't speak for the commissioners. I**

17 **think they felt that was -- they -- they made the**

18 **motion and they all voted on it, I guess.**

19 **Q** You have no idea why the six -- or the five Shannon

20 County commissioners voted unanimously approving five

21 days -- or six days of early voting, absentee voting

22 before the 2012 primary election?

23 **A I cannot tell you what they thought. They apparently**

24 **felt that was the days they wanted to offer.**

25 **Q** And you have no idea why they said that?

1 **A I can't speak for what they thought, no.**  
 2 **Q** You don't remember any of the conversation from the  
 3 discussion determining those six days?  
 4 **A I don't. They looked at the calendar, they set them,**  
 5 **I recorded the dates, and that's what's in the**  
 6 **minutes, and I don't recall specific conversation.**  
 7 **Q** Do you think that's fair that Shannon County  
 8 registered voters got six days of absentee voting in  
 9 Shannon County in person and Fall River registered  
 10 voters got 32 or 33?  
 11 **A I don't recall determining whether it was fair or**  
 12 **not.**  
 13 **Q** I'm asking you what you think today.  
 14 MS. FRANKENSTEIN: I'll object. This has been  
 15 asked and answered several times.  
 16 MR. SANDVEN: No. I didn't ask about the six  
 17 days.  
 18 **A Can you repeat that again?**  
 19 MR. SANDVEN: Can you read it back, ma'am?  
 20 (Question: "Do you think that's fair that  
 21 Shannon County registered voters got six days of  
 22 absentee voting in Shannon County in person and Fall  
 23 River registered voters got 32 or 33?" read by the  
 24 reporter.)  
 25 MS. FRANKENSTEIN: Object on foundation because

1 they did not get six days in 2012 primary.  
 2 **Q** Go ahead and answer.  
 3 **A I have people that live 60 miles away in Fall River**  
 4 **County and they either drive over or they do it by**  
 5 **mail. There's...**  
 6 **Q** So you don't see any problem with that?  
 7 **A My concern is when they set the dates, it's my**  
 8 **responsibility to do what they said and that's what**  
 9 **I'm concerned with.**  
 10 **Q** All right. Why did you think two days of absentee  
 11 voting in Shannon County was insufficient but six  
 12 days was okay?  
 13 **A I can't say.**  
 14 **Q** No reason whatsoever?  
 15 **A If they were going to do the early voting, I thought**  
 16 **two days probably was not enough and they -- I spoke**  
 17 **what I said and they went ahead and looked at that**  
 18 **and determined and made the motion and that's what I**  
 19 **go by.**  
 20 **Q** But you thought six days was enough?  
 21 **A They felt six days was enough.**  
 22 **Q** I'm asking you.  
 23 **A I don't have the -- I don't question what they say.**  
 24 **They live down there and if they felt that, I'm --**  
 25 **I'm not in -- I don't -- I don't argue with**

1 **commissioners when they make a motion.**  
 2 **Q** Whatever they say you'll do whether it's right or  
 3 wrong?  
 4 **A (The witness indicated.)**  
 5 **Q** You're nodding your head?  
 6 **A Well, I haven't had them make a motion that was wrong**  
 7 **or directed me to do something that was wrong, so I**  
 8 **haven't had to have that dilemma.**  
 9 **Q** So you think this was a correct motion giving six  
 10 days?  
 11 **A They made the motion. They agreed on it. I had**  
 12 **nothing to argue about with that.**  
 13 **Q** Do you think it was a correct motion? Do you think  
 14 it complied with South Dakota election laws?  
 15 **A I think that if -- they live down there and they were**  
 16 **comfortable with that, then I didn't have an opinion**  
 17 **on that.**  
 18 **Q** Do you think that motion authorizing six days  
 19 complied with South Dakota election laws? Yes or no?  
 20 **A The election laws say the early voting starts 46 days**  
 21 **prior to that. And we started early voting whether**  
 22 **it be down there or by mail or coming to Hot Springs**  
 23 **and so I think we've complied with the law.**  
 24 **Q** So why did you change it from six days to 32 days  
 25 like Fall River for the 2012 primary?

1 **A Because there was -- there was a lawsuit that was**  
 2 **brought that requested more than that.**  
 3 **Q** All right. So you went from six days to 32 or 33  
 4 days before the 2012 primary because of the lawsuit?  
 5 **A Apparently, because this was their original motion**  
 6 **that they made.**  
 7 **Q** All right. And when did it go to 32 or 33 days?  
 8 **A I cannot tell you the dates that -- I believe that**  
 9 **was back in March.**  
 10 **Q** All right. Did you know that it was -- was money an  
 11 issue for determining the number of absentee voting  
 12 days?  
 13 **A Money comes to be an issue, but it was resolved with**  
 14 **this lawsuit. So I'm happy about that.**  
 15 **Q** All right. First of all, tell me how money was  
 16 resolved by this lawsuit.  
 17 **A In the past -- with the Secretary of State in the**  
 18 **past, the reimbursement to Fall River County was only**  
 19 **for overtime and it didn't include our eight hours a**  
 20 **day that we were out of the office. And the lawsuit**  
 21 **prompted the Secretary of State to authorize the**  
 22 **additional monies to cover that.**  
 23 **Q** Didn't you just -- why couldn't you just ask the  
 24 Secretary of State to do it? Why did you need a  
 25 lawsuit?

1 **A I -- in the past, the Secretary of State did not**  
2 **authorize that.**  
3 **Q** All right. Let's go to what's been marked Exhibit  
4 161.  
5 **A Okay.**  
6 **Q** All right. Do you know the difference between Title  
7 I and Title II and Title III monies under HAVA?  
8 **A I would not testify on any of those differences.**  
9 **Q** You don't have any understanding of the differences  
10 between Title I and Title II and Title III funding  
11 requirements under HAVA?  
12 **A I cannot say I totally understand them. I just know**  
13 **what expenses would be reimbursable. Whether it's I,**  
14 **II, III, I don't -- I can't say.**  
15 **Q** All right. What's your understanding of what  
16 absentee voting costs in Shannon County can be paid  
17 by Title I?  
18 **A I can't tell you which title authorizes early voting**  
19 **reimbursement costs.**  
20 **Q** Have you ever researched it?  
21 **A I have not -- I have not sat down to get a full**  
22 **understanding of the different titles under the HAVA**  
23 **monies, no.**  
24 **Q** All right. You've known that Shannon County  
25 registered voters did not get the same number of

1 in-person absentee voting days in Shannon County as  
2 other counties in the State of South Dakota since  
3 2004, correct?  
4 **A The commissioners have not set that, no.**  
5 **Q** All right. So your answer is you knew since 2004  
6 Shannon County registered voters did not get the same  
7 number of in-person absentee voting days in-county as  
8 residents of other counties, correct?  
9 **A Obviously.**  
10 **Q** Your answer is yes, you knew that?  
11 **A Yes.**  
12 **Q** All right. Why didn't you -- and it was based upon  
13 money, correct? You didn't have adequate funding to  
14 go ahead and pay for these absentee voting locations,  
15 correct?  
16 **A That's -- that's a -- yes, that's a factor.**  
17 **Q** Right. And you remember from Chief Judge Schreier  
18 when you were at that preliminary injunction hearing  
19 in March --  
20 **A Um-hmm.**  
21 **Q** -- and you gave testimony under oath saying if  
22 someone would give us the money, we would take it.  
23 It was just a money issue. Do you remember talking  
24 about that?  
25 **A I remember everything in Shannon County has money**

1 **issues, yes.**  
2 **Q** Right. Do you remember that you stated that that was  
3 the basis for Shannon County not being able to  
4 provide the number of absentee voting days in-county  
5 in-person as other counties? Do you remember talking  
6 about that?  
7 **A I recall the general discussion, yes.**  
8 **Q** Right.  
9 **A Yeah.**  
10 **Q** And you stated that money was the cause of Shannon  
11 County not having the same number of absentee voting  
12 days in Shannon County in person, correct?  
13 **A Money is always an issue, so I -- without looking at**  
14 **my testimony...**  
15 **Q** You don't remember what you talked about there?  
16 **A If you showed it to me, I would know what I said.**  
17 **But I don't recall verbatim what I said, no.**  
18 **Q** Okay. I'm going to ask you here today, is the reason  
19 in 2004, your understanding, that the Shannon County  
20 registered voters didn't get the same number of  
21 in-county in-person days of absentee voting because  
22 of money?  
23 **A I would say that probably was, yes.**  
24 **Q** Any other reason?  
25 **A As far as I recall, that's the first time early**

1 **voting ever came up in Shannon County.**  
2 **Q** Same question for the 2006 election cycle, is the  
3 only reason that the Shannon County registered voters  
4 didn't get the same number of days of absentee voting  
5 in-person in Shannon County was because of money?  
6 **A I can't -- I don't recall why they only set two days.**  
7 **I don't recall that.**  
8 **Q** You were the county auditor in 2006?  
9 **A That's correct.**  
10 **Q** And you have no idea why Shannon County only had two  
11 days of in-person in-county absentee voting?  
12 **A I can only go back to minutes and see what motion**  
13 **they made.**  
14 **Q** Here today you have no idea?  
15 **A Money is always an issue in Shannon County.**  
16 **Q** As far as you know, funding was the only issue that  
17 restricts Shannon County from giving its residents,  
18 its registered voters the same number of in-person  
19 in-county absentee voting days as your other county,  
20 Fall River?  
21 **A I would say funding and whatever motion the county**  
22 **commissioners make.**  
23 **Q** And you have no idea what the Shannon County  
24 commissioners went ahead and considered in making  
25 that motion?

1 **A I don't recall.**  
 2 **Q** All right. Same questions for the 2008 general -- or  
 3 2008 election cycle. Shannon County registered  
 4 voters did not get, according to your answers to  
 5 these interrogatories, the same number of days of  
 6 absentee voting in-person in-county, correct?  
 7 **A That's correct.**  
 8 **Q** Why?  
 9 **A That is set by the county commissioners.**  
 10 **Q** Do you have any idea why it was restricted to less  
 11 days than Fall River registered voters?  
 12 **A Well, the commissioners are always considering**  
 13 **funding and have the funds to do things on all of the**  
 14 **decisions they make.**  
 15 **Q** Same questions for the 2010 election cycle. Why  
 16 didn't the Shannon County registered voters get the  
 17 same number of days of in-person in-county absentee  
 18 voting days as Fall River folks?  
 19 **A And I would have to imagine it had to go back to**  
 20 **funding.**  
 21 **Q** So, in your mind, funding is the primary reason, lack  
 22 of money in Shannon County is the primary reason that  
 23 Shannon County registered voters have not got the  
 24 same number of absentee voting days in-person  
 25 in-county?

1 the discovery for responses.  
 2 **Q** Okay. Did you ever research -- you said you never  
 3 researched the HAVA funding issue, what funds were  
 4 available from HAVA?  
 5 **A I did tag and research it. What I was aware of is**  
 6 **what expenses were reimbursable.**  
 7 **Q** Okay. Did you know how much money was available from  
 8 Title I, if any, for absentee voting in Shannon  
 9 County?  
 10 **A As far as I recall, I don't know which title it was,**  
 11 **I, II or III.**  
 12 **Q** Did you know that there was money available from HAVA  
 13 to conduct absentee voting in Shannon County?  
 14 **A I'm aware of that in 2010, if I recall correctly, was**  
 15 **the year that early voting in Shannon and Todd County**  
 16 **was authorized.**  
 17 **Q** All right. My question is, do you know if HAVA  
 18 funding was available in Shannon County for early  
 19 voting locations in Shannon County?  
 20 **A Which year?**  
 21 **Q** 2008.  
 22 **A I don't -- I don't recall it being available then. I**  
 23 **could be wrong but I -- in my mind, it was available**  
 24 **in '10.**  
 25 **Q** Do you remember the first time you contacted a South

1 **A Funding and I go back to whatever motion the**  
 2 **commissioners made.**  
 3 **Q** So your answer is yes?  
 4 **A I anticipate funding was part of their decision, yes.**  
 5 **Q** My question is whether or not it was the primary  
 6 reason?  
 7 MS. FRANKENSTEIN: She already answered that.  
 8 MR. SANDVEN: No, she didn't.  
 9 MS. FRANKENSTEIN: Yes, she did.  
 10 **Q** Answer it.  
 11 MS. FRANKENSTEIN: She said funding and the  
 12 motion. She said that numerous times.  
 13 **A That's -- everything they do is a funding issue down**  
 14 **there.**  
 15 **Q** Okay. So if you go to your answers, there's some  
 16 papers that are attached at the end. There is a page  
 17 Bates stamped 268. NO268 in the bottom right-hand  
 18 corner.  
 19 **A Can you tell me what page that is, please?**  
 20 **Q** It's right about -- it's about four pages from the  
 21 back of that packet.  
 22 **A In this Exhibit 161?**  
 23 **Q** Yep.  
 24 MS. FRANKENSTEIN: She has a different one than  
 25 you. The fourth page back is still in the body of

1 Dakota Secretary of State and said, We need money for  
 2 absentee voting in Shannon County? Do you remember  
 3 what election cycle that was?  
 4 **A I just honestly can't -- I don't recall doing it in**  
 5 **'08.**  
 6 **Q** You were the county auditor in 2006?  
 7 **A That's correct.**  
 8 **Q** I thought I just heard you say that funding was the  
 9 issue that Shannon County registered voters didn't  
 10 get the same number of in-person absentee voting days  
 11 in-county?  
 12 **A Correct.**  
 13 **Q** All right. During that 2006 election, did you ever  
 14 contact anyone at the South Dakota Secretary of State  
 15 and say, We need more money?  
 16 **A I didn't think it was in my rights to ask for more**  
 17 **other than what was allowed.**  
 18 **Q** What did you consider allowed?  
 19 **A Whatever guidelines that our Secretary of State had**  
 20 **set out that would be reimbursable.**  
 21 **Q** What was your understanding of what costs for  
 22 absentee voting in Shannon County in 2006 were  
 23 reimbursable?  
 24 **A I don't recall early voting -- and I could be wrong.**  
 25 **I don't recall early voting -- early voting, per se,**

40

1 **expenses being reimbursable by HAVA in 2006.**

2 **Q** Did you ever check it out? Did you ever research it?

3 **A I can't tell you. I can't tell you.**

4 **Q** Here today you don't remember ever researching

5 whether or not HAVA funds could be utilized for an

6 absentee voting location in Shannon County during the

7 2006 election cycle?

8 **A I don't recall if I contacted the Secretary of State**

9 **or not. I don't recall.**

10 **Q** Why wouldn't you contact the South Dakota Secretary

11 of State --

12 **A Well --**

13 **Q** -- if funding was an issue?

14 **A -- if it was -- I guess if I thought it was available**

15 **and would be a reimbursable expense, I'm sure I did.**

16 **I'm just telling you, I don't recall.**

17 **Q** You're sure you did?

18 **A I said I would think -- I would anticipate that I did**

19 **if I thought it was reimbursable. But I don't recall**

20 **on those dates if it was reimbursable.**

21 **Q** Okay. My question is, is in 2006, you don't know

22 what costs were reimbursable and what weren't --

23 **A I can't --**

24 **Q** -- for absentee voting in Shannon County?

25 **A I cannot say what was reimbursable in 2006.**

41

1 **Q** And you don't recall researching it?

2 **A I don't recall that, no.**

3 **Q** And you didn't produce any correspondence between you

4 and the Secretary of State requesting information on

5 how the funds could be utilized for absentee voting

6 in Shannon County?

7 **A No, I didn't.**

8 **Q** And you don't remember here today a conversation you

9 had with the South Dakota Secretary of State

10 regarding reimbursement of funds for absentee voting

11 locations in Shannon County?

12 **A In 2006? I don't recall.**

13 **Q** Same question for 2008, do you remember visiting or

14 communicating with the South Dakota Secretary of

15 State regarding funding, HAVA funding for absentee

16 voting in Shannon County?

17 **A I don't recall contacting him. I don't recall what**

18 **year I became aware that early voting costs were**

19 **reimbursable.**

20 **Q** You have no idea what -- when is the first time you

21 remember talking to the South Dakota Secretary of

22 State?

23 **A I just seem to think it was in 2010.**

24 **Q** Why would you wait so long to talk to the South

25 Dakota Secretary of State regarding funding issues

42

1 for absentee voting locations in Shannon County when

2 you repeatedly had funding problems for the last

3 three election cycles?

4 **A I would anticipate the Secretary of State sent us a**

5 **listing of what costs were reimbursable. And at that**

6 **time if early voting was not listed on his list, then**

7 **I -- I went by his list.**

8 **Q** Did you have any idea how many millions of dollars

9 were available for -- of HAVA funds that could have

10 been used for absentee voting locations in Shannon

11 County during the 2008 election cycle?

12 **A I don't know. I did not know, no.**

13 **Q** Do you know today?

14 **A I have heard now a figure of maybe six million that**

15 **the state held. Whether that includes the amounts**

16 **that's also held by the counties, I can't say. I**

17 **think so.**

18 **Q** Why didn't you ever go ahead and say, That \$6 million

19 that you just described, can we use a little bit of

20 that to pay for absentee voting locations in Shannon

21 County?

22 **A In what year?**

23 **Q** In 2008?

24 **A You know, I don't recall. It could have been me that**

25 **prompted the Secretary of State to authorize early**

43

1 **voting costs, but I honestly can't tell you.**

2 **Q** All right. So through the election cycle in 2006 --

3 **A Um-hmm.**

4 **Q** All right. You have no idea here today what costs

5 were reimbursable or not reimbursable under HAVA?

6 **A For early voting?**

7 **Q** For absentee voting locations in Shannon County?

8 MS. FRANKENSTEIN: Asked and answered.

9 **Q** You don't know?

10 **A I don't know.**

11 **Q** And you don't know -- you don't have any idea in 2004

12 how many -- how much of that HAVA money could have

13 been utilized for absentee voting locations in

14 Shannon County?

15 **A That's correct.**

16 **Q** And you never researched it?

17 **A Correct.**

18 **Q** In 2008, during that election cycle, you had no idea

19 how much money HAVA money was available for early

20 voting locations in Shannon County, correct?

21 **A That's correct.**

22 **Q** You never researched it?

23 **A I can't tell you if I did or not.**

24 **Q** Here today you don't ever recall researching that

25 issue?

1 **A I don't recall researching the issue. When I became**  
 2 **aware of the Secretary of State authorized funding**  
 3 **reimbursements for early voting, then we submitted**  
 4 **for that. But if it was not on his list of**  
 5 **reimbursable HAVA expenses, then that's as far as I**  
 6 **went as far as research. I mean, he made the**  
 7 **determination and we followed it.**  
 8 **Q** When did you first learn, if ever, that there was a  
 9 large chunk of HAVA money that was available for  
 10 funding absentee voting locations in Shannon County?  
 11 **A I -- I don't know. I -- I believe in '10 he**  
 12 **authorized expenses, so there must have been money**  
 13 **available.**  
 14 **Q** Do you have any idea what the reimbursable expenses  
 15 were for an absentee voting location in 2010 from  
 16 HAVA funds?  
 17 **A I believe he authorized rent, office expenses,**  
 18 **travel, meals and overtime costs.**  
 19 **Q** What --  
 20 **A And advertising or any other -- any other expenses**  
 21 **needed.**  
 22 **Q** If he authorized all those expenditures, why didn't  
 23 Shannon County have the same number of absentee  
 24 voting days in-person in-county as Fall River County?  
 25 **A Well, that, again, was set by the county**

1 **Q** Authorized travel?  
 2 **A Yes.**  
 3 **Q** Authorized meals?  
 4 **A Yes.**  
 5 **Q** So what else did you need to go ahead and give  
 6 Shannon County registered voters the same number of  
 7 in-person voting days in-county as Fall River folks?  
 8 **A I still needed funds to possibly, if needed, hire two**  
 9 **people in my office in Hot Springs to replace the two**  
 10 **that were going to Shannon County.**  
 11 **Q** Did you tell him that?  
 12 **A I'm sure we discussed it, but all that was authorized**  
 13 **was overtime costs.**  
 14 **Q** Why didn't you go ahead and make sure there was  
 15 sufficient staff before the 2010 election cycle  
 16 prepared to go ahead and give Shannon County  
 17 registered voters this same number of in-person  
 18 in-county voting days?  
 19 **A Can you repeat that or rephrase that? I didn't catch**  
 20 **the first part.**  
 21 MR. SANDVEN: Can you read it again, please.  
 22 (Question: "Why didn't you go ahead and make  
 23 sure there was sufficient staff before the 2010  
 24 election cycle prepared to go ahead and give Shannon  
 25 County registered voters this same number of

1 **commissioners.**  
 2 **Q** But are you --  
 3 **A At that time they did not reimburse the -- my 8 to 5**  
 4 **days.**  
 5 **Q** But are you saying now that funding wasn't an issue  
 6 for determining the number of absentee voting days in  
 7 Shannon County during the 2010 election cycle?  
 8 **A Can you repeat that, please?**  
 9 MR. SANDVEN: Can you read that back, ma'am?  
 10 (Question: "But are you saying now that funding  
 11 wasn't an issue for determining the number of  
 12 absentee voting days in Shannon County during the  
 13 2010 election cycle?" read by the reporter.)  
 14 **A I -- I -- I think their determination was still --**  
 15 **had financial issues.**  
 16 **Q** All right. If there were financial issues, I thought  
 17 I just heard you say that the Secretary of State,  
 18 during the 2010 election cycle, authorized  
 19 advertising, correct?  
 20 **A And I can't tell you at what point in '10 he**  
 21 **authorized that, but yes.**  
 22 **Q** And he authorized rent --  
 23 **A Um-hmm.**  
 24 **Q** -- for the office space?  
 25 **A Um-hmm.**

1 in-person in-county voting days?" read by the  
 2 reporter.)  
 3 **A Well, from the way I understand your question is I --**  
 4 **I can't hire extra people in my office for -- without**  
 5 **knowing whether it would be reimbursed or not.**  
 6 **Q** Did you ask him? Did you ask the Secretary of State?  
 7 **A I don't recall. All I recall was him telling me that**  
 8 **overtime costs, but not the eight-hour day costs,**  
 9 **would be reimbursed.**  
 10 MR. SANDVEN: Can I have this marked 162, please?  
 11 (Exhibit Number 162 marked for identification.)  
 12 **Q** I'm going to hand you what's been marked Exhibit 162.  
 13 Are you familiar with this e-mail?  
 14 **A Okay.**  
 15 **Q** Who is it from?  
 16 **A Chris Nelson.**  
 17 **Q** Who is it to?  
 18 **A Myself and Kathleen.**  
 19 **Q** When was it transmitted?  
 20 **A It was sent on May 1st, 2008.**  
 21 **Q** And didn't he let you know that Title II money, he  
 22 had EAC approval that Title II money could be  
 23 utilized for absentee voting locations in Shannon  
 24 County?  
 25 **A Well, apparently, he let me know in May of '08 that**

1 **that would be an allowable expense.**  
 2 **Q** All right. This is your -- this is an e-mail you  
 3 received?  
 4 **A Yes.**  
 5 **Q** Do you remember reading it before?  
 6 **A Not particularly, but...**  
 7 **Q** Did you know -- you produced this document in  
 8 discovery on July 13th?  
 9 **A I did not produce this, no.**  
 10 **Q** Oh, you didn't produce this?  
 11 **A No.**  
 12 **Q** All right. So when is the last time you remember  
 13 reviewing or thinking about this e-mail?  
 14 **A Probably in 2008.**  
 15 **Q** All right. So the way I read that e-mail, tell me if  
 16 I'm incorrect, is you had access to any money you  
 17 needed to go ahead and fund an absentee voting  
 18 location in Shannon County?  
 19 **A Well, not for my -- I believe I was aware that early**  
 20 **voting costs would be a reimbursable expense. And I**  
 21 **can't say when I was told that only overtime would be**  
 22 **allowed.**  
 23 **Q** And how many days of early voting did the Shannon  
 24 County registered voters get in-person in-county  
 25 during the 2008 election cycle?

1 voting?  
 2 **A I do not, no.**  
 3 **Q** You don't remember one thing about any discussion  
 4 with any county commissioner regarding why Shannon  
 5 County registered voters only received two days of  
 6 in-county in-person absentee voting?  
 7 MS. FRANKENSTEIN: I'll object. This has been  
 8 asked and answered numerous times. I think we can  
 9 move on.  
 10 **Q** Go ahead and answer it.  
 11 **A I don't recall.**  
 12 **Q** Do you remember communicating to anybody that you  
 13 received an e-mail -- can I see Exhibit 162? On May  
 14 1st, 2008, from the Secretary of State that said  
 15 there was money that could be used for early voting  
 16 in Shannon County?  
 17 **A I don't recall the discussion. I don't recall when**  
 18 **they made that motion.**  
 19 **Q** Right. Here's my question.  
 20 **A Okay.**  
 21 **Q** All right? This is a communication from Chris Nelson  
 22 to you, correct?  
 23 **A I was one of the recipients, yes.**  
 24 **Q** And it was copied in to Kea Warne and Daniel Burke?  
 25 **A Okay.**

1 **A And -- can I refer to my Exhibit 161?**  
 2 **Q** Yes, ma'am.  
 3 (A brief pause.)  
 4 **A And can you repeat that? Was that for 2008?**  
 5 **Q** Yes, ma'am.  
 6 **A Primary or general?**  
 7 **Q** Both.  
 8 **A We had two days prior to the primary.**  
 9 **Q** So your testimony is before the 2008 primary election  
 10 in Shannon County voters only received two days of  
 11 absentee voting in-person in-county, correct?  
 12 **A That's correct.**  
 13 **Q** And for the general election they only received two  
 14 days of absentee voting in-person in-county, correct?  
 15 **A That's what the records show, yes.**  
 16 **Q** Why? You had all of the money you needed.  
 17 **A Well, then that still goes back to the motion that**  
 18 **the county commissioners make.**  
 19 **Q** So now you're saying that money isn't the issue?  
 20 **A It's still a twofold deal.**  
 21 **Q** Explain the twofold deal.  
 22 **A Money and the motion.**  
 23 **Q** All right. Do you remember any of the discussions in  
 24 2008 regarding why Shannon County residents only  
 25 received two days in-county in-person of absentee

1 **Q** Right?  
 2 **A According to that, yes.**  
 3 **Q** All right. And it was -- the subject line was  
 4 absentee sites in Shannon and Todd?  
 5 **A Um-hmm.**  
 6 **Q** So you knew that this e-mail was referencing funding  
 7 for Shannon and Todd Counties, correct?  
 8 **A I did at that time, yes.**  
 9 **Q** And the first sentence of this e-mail said, We are  
 10 picking up rumblings about a request for absentee  
 11 sites in Shannon and Todd?  
 12 **A That's what it says, yes.**  
 13 **Q** So you understood clearly that there was funding  
 14 available for early voting in those two counties  
 15 without a courthouse for absentee voting?  
 16 MS. FRANKENSTEIN: I'll object. I'd ask that you  
 17 allow her to read it so she can see what it is she  
 18 understood as to what kind of expenses were allowed.  
 19 **A I don't -- at that time I believe that I was aware**  
 20 **there were expenses that would be reimbursed. I**  
 21 **don't recall if I had the full list at that time.**  
 22 **Q** Did you ever follow up to the South Dakota Secretary  
 23 of State regarding this e-mail?  
 24 **A I can't say.**  
 25 **Q** And do you remember reading one of the questions we

1 are being asked is whether their county HAVA funds  
 2 can be used for this purpose?  
 3 **A Do I remember --**  
 4 **Q** Do you remember reading that?  
 5 **A I remember reading it right now and...**  
 6 **Q** But do you remember in 2008 that the Secretary of  
 7 State told you that this early -- that after May  
 8 25th, this would be an allowable expense under the  
 9 category of other improvements to federal elections?  
 10 **A Apparently I earlier testified that I thought it**  
 11 **started in '10, so I cannot say. Obviously I didn't**  
 12 **remember that e-mail.**  
 13 **Q** All right. And you don't -- when you read this  
 14 e-mail --  
 15 **A Um-hmm.**  
 16 **Q** -- that's marked 162 --  
 17 **A Um-hmm.**  
 18 **Q** -- that's really good news, isn't it, HAVA funding to  
 19 pay for early voting in Shannon County?  
 20 **A That is good news, yes.**  
 21 **Q** But you don't remember communicating that to anybody  
 22 in the Shannon River (sic) County Commission?  
 23 **A In the what? Shannon County?**  
 24 **Q** Yes. You don't remember telling anyone on the  
 25 Shannon County Commission, Good news. We've got HAVA

1 funding for absentee voting in Shannon County?  
 2 **A I can't -- I can't say if I recall reporting that to**  
 3 **them or not.**  
 4 **Q** Did you search your e-mail files for any  
 5 communication regarding absentee voting with Shannon  
 6 County?  
 7 **A I did not.**  
 8 **Q** You never searched any of your records? You received  
 9 a bunch of written discovery requests?  
 10 **A That's correct.**  
 11 **Q** All right. Do you remember in those written  
 12 discovery requests you were supposed to produce all  
 13 of the documents and e-mails that were related to  
 14 absentee voting in Shannon County?  
 15 MS. FRANKENSTEIN: I'll object, because that's  
 16 not true.  
 17 **Q** Go ahead.  
 18 **A I responded to the interrogatory and the supplemental**  
 19 **questions and if I -- I understand that if any of**  
 20 **that information came from -- where it came from. I**  
 21 **don't recall researching and finding any e-mails on**  
 22 **the early voting.**  
 23 **Q** Does it surprise you today to read this 2008 e-mail  
 24 from the South Dakota Secretary of State that says,  
 25 We have the money for early voting locations in

1 Shannon County?  
 2 **A Again, earlier, I thought it was '10 that was first**  
 3 **allowed, so I was wrong in what I thought. So I -- I**  
 4 **apparently didn't -- I didn't remember it being**  
 5 **authorized in '08.**  
 6 **Q** Can you give me any reason why Shannon County  
 7 registered voters only got two days of absentee  
 8 voting in-person in-county before the 2008 primary  
 9 and 2008 general when you had money being offered  
 10 from the South Dakota Secretary of State?  
 11 **A I cannot tell you what made the county commissioners**  
 12 **determine the dates they set.**  
 13 **Q** And you have no idea why you didn't communicate this  
 14 good news in this e-mail marked Exhibit 162 to either  
 15 of the county commissions?  
 16 MS. FRANKENSTEIN: I'll object.  
 17 **A I don't recall.**  
 18 MS. FRANKENSTEIN: No foundation. She already  
 19 testified she doesn't remember if she communicated or  
 20 not.  
 21 **Q** The 2008 election cycle, was funding an issue or not?  
 22 **A Funding is always an issue.**  
 23 **Q** If funding is always an issue, why didn't you go  
 24 ahead and go to the South Dakota Secretary of State  
 25 and say, Give me some money from HAVA?

1 **A Apparently they authorized money in 2008. What**  
 2 **you're asking is why the commissioners set two days**  
 3 **and that I can't say.**  
 4 **Q** No. I'm asking why you didn't go to the South Dakota  
 5 Secretary of State and follow up on funding that was  
 6 available?  
 7 **A I'm --**  
 8 MS. FRANKENSTEIN: I'm going to object. Steve,  
 9 you know that they did, in fact, seek funding.  
 10 You've got the exhibit. I'm looking at it. Let's  
 11 try not to confuse the record here.  
 12 **Q** Answer my question.  
 13 **A I anticipate I submitted HAVA reimbursement for**  
 14 **expenses. If it was allowed, we would have made**  
 15 **application for the reimbursement.**  
 16 MR. SANDVEN: All right. Can I have this marked  
 17 Exhibit 163?  
 18 (Exhibit Number 163 marked for identification.)  
 19 **Q** What's this? What's the date of the e-mail, ma'am?  
 20 **A October 10th of 2008.**  
 21 **Q** What time?  
 22 **A 2:46 p.m.**  
 23 **Q** From who to who?  
 24 **A This looks like a response from Chris to myself.**  
 25 **Q** And he told you, again, October 10th of 2008, that



1 HAVA funds, Title II money could be utilized for  
 2 absentee voting locations in Shannon County, didn't  
 3 he?  
 4 **A He told me it was available for legitimate costs**  
 5 **associated with the site.**  
 6 **Q** What was your understanding of what were legitimate  
 7 costs?  
 8 **A As I previously stated, the rent, the travel, any**  
 9 **advertising, any supplies, and apparently overtime,**  
 10 **but not the regular eight-hour day costs.**  
 11 **Q** All right. So what's your understanding of all  
 12 absentee costs that weren't required or weren't  
 13 covered by HAVA?  
 14 **A My understanding is it did not reimburse myself and**  
 15 **my office for our regular eight-hour staff time.**  
 16 **Only the overtime costs.**  
 17 **Q** Okay. And that was it, everything else HAVA could  
 18 pay for?  
 19 **A As long as it was associated with the early voting.**  
 20 **I don't recall if there were any expenses I put in**  
 21 **that weren't reimbursed.**  
 22 **Q** And you understood this in 2008?  
 23 **A Apparently I did, yes.**  
 24 **Q** Why do you say apparently you did?  
 25 **A Well, I don't recall -- apparently I knew more about**

1 **the II and III at that time than I remember at this**  
 2 **moment.**  
 3 **Q** All right. Because you responded at what time on  
 4 October 10th, 2008?  
 5 **A I sent my e-mail to Chris at 1:45 and he responded at**  
 6 **2:46.**  
 7 **Q** All right. And what you were doing -- and the  
 8 subject line was what?  
 9 **A Shannon-title monies.**  
 10 **Q** Right. And you were referring to what HAVA funds  
 11 could be utilized for early voting or absentee voting  
 12 costs in Shannon County, weren't you?  
 13 **A That's correct.**  
 14 **Q** And then when you said, Hi Chris. Just double  
 15 checking on Title II and Title III monies. And you  
 16 said, After discussion with attorneys concerning  
 17 these monies, and their quoting the \$50,000 some  
 18 monies that's available for early voting, I told them  
 19 that there are two different title monies.  
 20 What did you mean by that? There was 50,000  
 21 available for absentee voting in Shannon County for  
 22 the 2008 general election?  
 23 **A I believe that was an approximate balance of the**  
 24 **monies that we were holding in our county-held**  
 25 **account for HAVA reimbursements. And I believe I was**

1 **double-checking on which of the two title monies**  
 2 **would be available.**  
 3 **Q** Right. So you asked -- I told them there are two  
 4 different title monies with only the Title III  
 5 available to early vote, correct?  
 6 **A That's what I said, yes.**  
 7 **Q** Right. Chris Nelson came back and told you, No, you  
 8 can use Title II money, also?  
 9 **A That he did, yes.**  
 10 **Q** And you asked Chris Nelson, in your 1:45 p.m. e-mail  
 11 on October 10th, 2008, the question is, is the whole  
 12 50-some-thousand available for early voting and what  
 13 can be put in for reimbursement, travel, wages and  
 14 room rent?  
 15 **A That's correct.**  
 16 **Q** Did he answer your question?  
 17 **A He basically responded that it was the Title II**  
 18 **monies and any legitimate costs would be authorized**  
 19 **for reimbursement other than the eight-hour day time.**  
 20 **Q** So you knew you had all of the money that you needed  
 21 for early voting locations in Shannon County during  
 22 the 2008 general election cycle?  
 23 **A I believe I assumed that, yes. All -- any associated**  
 24 **costs that looked legitimate would be reimbursed**  
 25 **other than our staff eight-hour day costs.**

1 **Q** All right. What was the approximate absentee voting  
 2 period in -- for South Dakota registered voters for  
 3 the 2000 general election cycle? When would that  
 4 begin? The election is in early November, correct?  
 5 **A Um-hmm.**  
 6 **Q** So when would early voting, that 46-day period begin  
 7 usually?  
 8 **A It's the six weeks prior.**  
 9 **Q** So when does that put it at?  
 10 **A September something.**  
 11 **Q** Late September?  
 12 **A Probably, yes.**  
 13 **Q** All right. So this electronic correspondence between  
 14 you and Chris Nelson was occurring in the midst of  
 15 the absentee voting period?  
 16 **A Appears to be, yes.**  
 17 **Q** So now you had the money. You've got confirmation  
 18 from the South Dakota Secretary of State that you had  
 19 money that could be spent for early voting locations.  
 20 Did you communicate this to anybody?  
 21 **A I don't recall.**  
 22 **Q** This is good news, isn't it?  
 23 **A It's good news, yes.**  
 24 **Q** But you don't remember giving this good news to  
 25 anybody?

1 **A I can't say I specifically remember, no.**  
 2 **Q** Generally?  
 3 **A Generally, I would assume I passed it on to the**  
 4 **commissioners, but I cannot...**  
 5 **Q** How do you normally communicate with the county  
 6 commissioners?  
 7 **A Normally verbally.**  
 8 **Q** Normally verbally. Do you remember any specific  
 9 commissioner you shared this with?  
 10 **A I don't recall, no.**  
 11 **Q** All right. Do you generally do most of your  
 12 communication with the chair of the county  
 13 commission? Who do you do most of your talking with?  
 14 **A Most of my correspondence is at meetings, when they**  
 15 **come to meetings.**  
 16 **Q** All right. Are you aware of any meeting minutes  
 17 where you reported anywhere in 2008, We've got more  
 18 money from HAVA for early voting in Shannon County?  
 19 **A Without rereading all of the minutes, I can't say,**  
 20 **no.**  
 21 **Q** You're not aware and you don't remember anything like  
 22 that today?  
 23 **A I don't recall any specifics, no.**  
 24 **Q** Don't remember ever raising this HAVA money, this new  
 25 HAVA money that's available for absentee voting in

1 **A Can you let me read this a second?**  
 2 **Q** Yes, ma'am.  
 3 (A brief pause.)  
 4 **A Okay. Now, the question again was?**  
 5 **Q** Do you remember going ahead and writing this e-mail  
 6 or sending this e-mail on October 10th, 2008, at 2:56  
 7 p.m.?  
 8 **A Specifically, no.**  
 9 **Q** Generally?  
 10 **A Obviously from the e-mail, but I don't recall sending**  
 11 **it.**  
 12 **Q** In the first line you say, Okay, just to confirm,  
 13 maybe I was not correct in what I told them. Who's  
 14 them? Who are you communicating with?  
 15 **A I would presume the Shannon County commissioners.**  
 16 **Q** Maybe I was not correct in what I told them, but told  
 17 them I would need to check on it. What were you  
 18 referring to?  
 19 **A What would be reimbursable.**  
 20 **Q** What costs that HAVA could go ahead and pay for, HAVA  
 21 funds could be used for for absentee voting locations  
 22 in Shannon County, that's what you were referring to?  
 23 **A That's what I'm referring to, yes.**  
 24 **Q** And then you said, When we go to Shannon, including  
 25 the second day we voted in May, what do you mean

1 Shannon County at a single Shannon County commission  
 2 meeting?  
 3 **A Specifically, I do not recall, no.**  
 4 **Q** Generally?  
 5 **A I can't say. I don't recall.**  
 6 **Q** Same question for Fall River County commissioner  
 7 meetings. Did you ever give those folks the good  
 8 news, We've got more HAVA money for early voting in  
 9 Shannon County?  
 10 **A I don't ever discuss Shannon issues with Fall River**  
 11 **County.**  
 12 MR. SANDVEN: Can I have this marked Exhibit 164,  
 13 ma'am?  
 14 (Exhibit Number 164 marked for identification.)  
 15 **Q** You have Exhibit 164 in front of you. And this is an  
 16 e-mail from you on October 10th, 2008, at 2:56 p.m.,  
 17 correct?  
 18 **A That's correct.**  
 19 **Q** And this is from you to Chris Nelson?  
 20 **A That's correct.**  
 21 **Q** And the subject line is regarding, Shannon-title  
 22 monies?  
 23 **A Correct.**  
 24 **Q** And that's referencing absentee voting location costs  
 25 in Shannon County?

1 there, When we go to Shannon?  
 2 **A When we physically go to Shannon County to conduct**  
 3 **early voting.**  
 4 **Q** And you stated, we should be able to charge any wages  
 5 we paid to people to work with us, excluding our  
 6 office personnel, correct?  
 7 **A Correct.**  
 8 **Q** So why didn't you just hire new folks for the 2008  
 9 election cycle to run over to Shannon County absentee  
 10 voting locations to perform the needed services?  
 11 **A Because I'm in charge of the ballots and I will be**  
 12 **the one taking ballots.**  
 13 **Q** Right. The way I'm reading your e-mail is you said,  
 14 we should be able to charge any wages we pay to  
 15 people to work for us, excluding our office  
 16 personnel.  
 17 **A Um-hmm.**  
 18 **Q** So that meant you could go out and hire folks, right,  
 19 to go ahead and oversee the absentee voting locations  
 20 in Shannon County?  
 21 **A I don't recall I was referring to overseeing the**  
 22 **voting. I believe I was referring to that if we**  
 23 **hired additional help besides ourselves that would be**  
 24 **a reimbursable expense.**  
 25 **Q** Why didn't you do that, ma'am?

1 **A I certainly recall doing it in '04 and I believe we**  
2 **hired extra people in '08.**  
3 **Q** Right. But I thought I heard you say earlier that  
4 funding wasn't the issue for limiting early voting or  
5 absentee voting in Shannon County to two days before  
6 the primary, two days before the general. It wasn't  
7 funding. You had the money, correct?  
8 **A That's correct.**  
9 **Q** All right. So what was the reason limiting to two  
10 days? You didn't have the staff?  
11 **A If I didn't -- if that wasn't a funding issue, then**  
12 **it went to what the county commissioners approved.**  
13 **Q** Right. Because it wasn't a staffing issue either,  
14 was it? Because you had communication from the South  
15 Dakota Secretary of State that went ahead and said,  
16 We will also pay for new folks you need to hire to  
17 operate those absentee voting locations?  
18 MS. FRANKENSTEIN: I'll object. There is no  
19 response from Chris Nelson, the Secretary of State in  
20 Exhibit 164 regarding her question. There's simply  
21 her question. There's no response.  
22 **Q** You don't remember a response from South Dakota  
23 Secretary of State Nelson?  
24 **A I don't recall what he responded to me on this**  
25 **particular e-mail , no.**

1 primary?  
2 MS. FRANKENSTEIN: I'll object on foundation.  
3 She's already testified she didn't have all of the  
4 money they need because it did not reimburse for  
5 office personnel. She's given the list of what they  
6 could get reimbursed for.  
7 MR. SANDVEN: Just make your objection. All  
8 right? Okay. So can I have this document marked  
9 165?  
10 (Exhibit Number 165 marked for identification.)  
11 **Q** I'm going to hand you what's been marked 165. At the  
12 top of that document, do you see an e-mail from  
13 Secretary of State Chris Nelson to you?  
14 **A I do.**  
15 **Q** What's the date?  
16 **A October 10th, 2008.**  
17 **Q** Time?  
18 **A 3:40 p.m.**  
19 **Q** Subject line?  
20 **A Shannon-title monies.**  
21 **Q** What did he say?  
22 **A He concurred that the expenses I requested -- the**  
23 **expenses that I mentioned questioning if they would**  
24 **be reimbursable, he concurred that yes, those**  
25 **expenses would be allowable.**

1 **Q** All right. Was this a question from you to Chris  
2 Nelson, Okay, just to confirm, we should be able to  
3 charge was -- you were asking a question?  
4 **A Um-hmm. I was questioning to make sure what the**  
5 **expenses that we have paid would be reimbursable and**  
6 **I listed the expenses.**  
7 **Q** Do you remember he said, Yes, go ahead. That's fine?  
8 **A I recall him always telling us when he authorized the**  
9 **early voting that any of these associated costs would**  
10 **be reimbursed other than my county's and employees'**  
11 **eight-hour days.**  
12 **Q** All right. So what's your understanding of why you  
13 sent that e-mail dated October 10th, 2008, at 2:56  
14 p.m. to Secretary of State Chris Nelson?  
15 **A Apparently I was wanting to make sure that the early**  
16 **voting that we did in May would also be able to be**  
17 **put on this reimbursement.**  
18 **Q** All right. Do you remember if it was ever made sure?  
19 **A I would assume -- I don't recall, but I'm sure that**  
20 **we charged for May --**  
21 **Q** Okay.  
22 **A -- and the costs.**  
23 **Q** So you had all of the money you needed to do however  
24 many number of days of absentee voting you wanted to  
25 or the county commission wanted to during the 2008

1 **Q** Did you tell anybody?  
2 **A I don't recall.**  
3 **Q** All right. So what money didn't you have to go ahead  
4 and do the 2008 primary or general elections absentee  
5 voting in Shannon County? What costs do you think  
6 you were missing?  
7 **A I think the only costs that were non-reimbursable was**  
8 **my staff's eight-hour days.**  
9 **Q** All right. When we did the deposition of Chris  
10 Nelson a couple days ago, he went ahead and said  
11 unless it was really busy, you only needed one person  
12 at the absentee voting location. Do you agree?  
13 **A I don't recall. I --**  
14 **Q** Never researched it?  
15 **A I don't recall Chris being down there seeing when we**  
16 **did the voting.**  
17 **Q** All right. Do you know what the minimum number of  
18 people are required to go ahead and staff an absentee  
19 voting location?  
20 **A I don't know if there's a set minimum. I know that**  
21 **when I -- when we went down there, two people went.**  
22 **Q** Was that required?  
23 **A I don't know if there was a requirement or not.**  
24 **That's the -- that's what I set as how many people we**  
25 **took down there.**

1 Q What was your basis for determining two people there?

2 A **Because you just -- you don't know. I mean, how do**

3 **you know if you're going to get 40, 50 people come in**

4 **at one point in time. You just don't know what you**

5 **were going to have for early voting, so I wanted to**

6 **be staffed.**

7 Q By two people?

8 A **Yes.**

9 Q All right. And what were the requirements? What

10 were the minimum requirements of those two people?

11 A **That they were -- they were my office staff.**

12 Q You couldn't contract out other folks?

13 A **Are you talking about ballots and taking ballots down**

14 **there or what?**

15 Q Any part of staffing those absentee voting locations.

16 A **We've hired people from Shannon County in the past.**

17 Q What were the minimum requirements for the folks that

18 staff the absentee voting locations in Shannon

19 County?

20 A **I'm just not getting your question.**

21 Q Are there any minimum requirements, educational

22 requirements, training, certifications? For you to

23 hire someone to staff that location, what are the

24 minimum requirements, the minimum qualifications that

25 they have to satisfy in order go ahead and do that

1 A **If they came to work and weren't trained, they would**

2 **be trained and then proceed.**

3 Q How long would it take you to train them to do that

4 function at an absentee voting location in Shannon

5 County?

6 A **I can't say.**

7 Q Would it be a couple days --

8 A **No.**

9 Q -- you could teach them?

10 A **They would certainly be able to be taught before two**

11 **days, yes.**

12 Q A couple hours? Could you teach them what the job is

13 in a couple hours or would it take you a full day?

14 A **No. They could learn the function in two hours or**

15 **less.**

16 Q All right. So any person could go ahead and fulfill

17 this function of staffing an absentee voting location

18 in Shannon County if they underwent two hours of

19 training with you, the county auditor? You could

20 teach them what the job was?

21 A **I would obviously have to teach them to do what the**

22 **job is.**

23 Q But you think you could do it in two hours, ma'am?

24 A **Yes.**

25 Q All right. So for the secretarial or administrative

1 function?

2 A **I have no set minimum requirements.**

3 Q Anybody could do it?

4 A **If I hired them, they apparently passed whatever I**

5 **felt would enable them to be able to do the job.**

6 Q Right. You said there is no minimum requirements,

7 but it was, basically, an administrative or

8 secretarial function?

9 A **It was my office function. I don't know how you want**

10 **to classify that, but...**

11 Q All right. So if I wanted to go ahead and perform

12 this function, would I have to go through some

13 training?

14 A **Are you asking if you were employed by me?**

15 Q Yeah. For staffing an absentee voting location in

16 Shannon County, what are the training requirements

17 that you would have to do for a new person coming in

18 to perform that function?

19 A **We would go through the procedure and they would have**

20 **to know the procedure. They'd have to know what**

21 **ballots to give. Whatever they would need to be able**

22 **to perform the function.**

23 Q Right. And how long would it take you to train the

24 average person to go ahead and learn that function at

25 an absentee voting location in Shannon County?

1 function that only requires two hours of training,

2 what would you have to pay that person?

3 A **Whatever we're paying them hourly is what they would**

4 **be paid whether they were performing the early voting**

5 **or getting the training.**

6 Q Okay. Do you remember what you paid folks to staff

7 an absentee voting location, the lowest amount you

8 paid in the 2010 election cycle?

9 A **I do not recall.**

10 MR. SANDVEN: It's been an hour and a half. Do

11 you want to take a break, ma'am?

12 MS. FRANKENSTEIN: Yep.

13 (A recess was taken from 10:40 a.m. to 10:51

14 a.m.)

15 Q In your answers to interrogatory number 2, B as in

16 bravo.

17 A **Okay.**

18 Q Okay. You testified earlier there was no early

19 voting satellite in Shannon County for the primary

20 and for the general it was Mondays, Tuesdays, and

21 Wednesdays from 10 to 3?

22 A **Yes.**

23 Q Why wasn't it full days?

24 A **I believe it was so we would have time to get down**

25 **there and get home within our eight-hour day.**

- 1 Q All right. And this was at Sacred Heart Church in  
2 Pine Ridge?
- 3 A **Yes.**
- 4 Q Do you know how much it cost to go ahead and use that  
5 location in Pine Ridge?
- 6 A **I don't recall.**
- 7 Q Do you know if it was just offered by the tribe and  
8 you didn't have to pay anything?
- 9 A **It was a church. It wasn't a tribal church. But I  
10 don't recall if they charged us rent or not.**
- 11 Q All right. So it was -- do you know why it was only  
12 offered three days a week instead of five days a  
13 week?
- 14 A **It was the motion the commissioners made. I don't  
15 recall what they...**
- 16 Q All right. And then on October 12th, 13th, 18th,  
17 19th, 21st, 25th, 26th, 27th, November 1st and 2nd,  
18 so that was a total of how many days of absentee  
19 voting or partial days of absentee voting in Shannon  
20 County in person?
- 21 A **Can you repeat that? You're talking for the --**
- 22 Q 2004, general, ma'am.
- 23 A **Okay. So we're talking the eight days in Pine Ridge,  
24 is that correct?**
- 25 Q Okay. Eight days in Pine Ridge. And how many other

- 1 days were offered?
- 2 A **Sorry. It could have been nine. And then we had six  
3 in Kyle.**
- 4 Q All right. And those were just partial days from 10  
5 o'clock a.m. to 3 o'clock p.m.?
- 6 A **Yes.**
- 7 Q All right. How long does it take to drive from  
8 Shannon County -- or I'm sorry, Hot Springs to Pine  
9 Ridge?
- 10 A **It's about an hour.**
- 11 Q All right. So why did you allocate two hours before  
12 and two hours after for travel time? It was a total  
13 of four hours of travel time you allocated, correct?
- 14 A **Well, we still had to go into the office and get the  
15 ballots and any other things that we needed to take  
16 down there. And when we got back, we had to still  
17 replenish our ballots or -- I don't recall if we had  
18 a computer system at that -- in that election. But  
19 it was just allowing time for us to get everything  
20 that we needed to be done.**
- 21 Q All right. What are the normal hours of the Fall  
22 River County courthouse?
- 23 A **We're open 8 to 5.**
- 24 Q All right. And then could someone absentee vote over  
25 the lunch hour, too?

- 1 A **They could, yes.**
- 2 Q Any time ever provided on weekends?
- 3 A **Never.**
- 4 Q Okay. So this five-hour period, is that fair to you  
5 that the folks in Shannon County only had five hours  
6 of absentee voting in-person in-county when the  
7 registered voters of Fall River got eight hours?
- 8 A **I didn't ever -- I don't recall thinking if it was  
9 fair. It was a time period that allowed us to get  
10 down there and provide the early voting.**
- 11 Q Why not go ahead and leave a little early and get  
12 home a little late?
- 13 A **I don't recall what the reasoning was back in 2004.**
- 14 Q No idea?
- 15 A **No.**
- 16 Q Do you know if you had to pay anything for Our Lady  
17 of Sorrows Church?
- 18 A **I don't recall the cost. I don't recall.**
- 19 Q So how many total days of absentee voting in-person  
20 in-county did Shannon County registered voters get  
21 for the 2004 general election?
- 22 A **Sixteen.**
- 23 Q And Fall River registered voters received 32 or 33?
- 24 A **Within the six weeks created, yes.**
- 25 Q All right. Did you ever try to make absentee voting

- 1 easier between the 2004 primary or the 2004 general?
- 2 Did you ever take any steps to make sure that the  
3 Shannon County registered voters would get the same  
4 number of days as everybody else?
- 5 A **I did not do anything, no.**
- 6 Q Why not?
- 7 A **I wasn't even the auditor at that time.**
- 8 Q All right. Let's talk about from the 2006 election.  
9 You were the county auditor, correct?
- 10 A **2006, yes.**
- 11 Q And during the 2006 primary election, the Shannon  
12 County voters received -- registered voters received  
13 zero days in person?
- 14 A **What did you say? For D, for --**
- 15 Q C, the 2006 primary?
- 16 A **Yes.**
- 17 Q They didn't even get one day of absentee voting  
18 in-person in-county. Why not?
- 19 A **I -- I -- I don't recall why. The commissioners did  
20 not make a motion to have early voting down there.**
- 21 Q Before the 2006 primary election, did you ever try to  
22 do anything to solicit input on early voting?
- 23 A **I don't recall doing anything.**
- 24 Q Why not?
- 25 A **I think the commissioners were aware that they had**

- 1 **the legal right to make a motion to request it.**
- 2 **Q** Did you ever talk to anyone, Why aren't we doing any
- 3 absentee voting in Shannon County for the 2006
- 4 primary?
- 5 **A I don't recall talking to anybody, no.**
- 6 **Q** No correspondence that you remember?
- 7 **A Not that I recall, no.**
- 8 **Q** Wasn't that a big deal to you?
- 9 **A 2004 was the first year that I recall doing it, so it**
- 10 **was kind of a new thing down there.**
- 11 **Q** Yeah. You knew that there was absentee balloting in
- 12 2004, correct?
- 13 **A I did, yes.**
- 14 **Q** And you assisted with the absentee balloting in
- 15 Shannon County?
- 16 **A I did, yes.**
- 17 **Q** But you never talked with anyone about doing absentee
- 18 balloting in 2006 in Shannon County?
- 19 **A I honestly don't recall any conversation.**
- 20 **Q** Same question for D, the 2006 general election, there
- 21 were zero days?
- 22 **A Yes.**
- 23 **Q** Was funding an issue?
- 24 **A I don't recall what -- if there was an issue or why**
- 25 **the commissioners didn't make a motion to request it.**

- 1 **Q** So you have no idea why there was no absentee voting
- 2 location in Shannon County during the 2006 primary?
- 3 **A I don't recall any reasons why, no.**
- 4 **Q** And you have no idea why there was no absentee voting
- 5 during the 2006 general election?
- 6 **A Same answer.**
- 7 **Q** No, you don't have any idea?
- 8 **A No idea.**
- 9 **Q** All right. What happened during the 2008 primary
- 10 election? How many days of early voting were there
- 11 in person in Shannon County?
- 12 **A I believe they set two days prior to the primary.**
- 13 **Q** Do you know when those two days were? Were they
- 14 during the period that a voter could get registered?
- 15 **A May 21st was the day in Pine Ridge. I don't recall**
- 16 **what the registration deadline was in that year. And**
- 17 **the 28th would have been past the deadline to**
- 18 **register.**
- 19 **Q** Was May 21st a full day?
- 20 **A I believe we were there from 10 until 3.**
- 21 **Q** Why not a full eight hours of early voting on May
- 22 21st, 2008?
- 23 **A I would have to assume, again, it's the time that**
- 24 **would allow us to get into the office, gather what we**
- 25 **needed and get down there.**

- 1 **Q** Could you have paid your staff overtime to go ahead
- 2 and get in a little early so the folks in Shannon
- 3 County would have the full eight hours?
- 4 **A I'm assuming this is what the commissioners set for**
- 5 **the times.**
- 6 **Q** Right. My question is, was overtime available from
- 7 HAVA funds to go ahead and pay?
- 8 **A Yeah. I believe we -- and this is in '08, so yes, I**
- 9 **believe we just went over that it was available.**
- 10 **Q** So why didn't you just request a little bit of
- 11 overtime from the South Dakota Secretary of State
- 12 HAVA funds to go ahead and pay for some of the
- 13 absentee voting where the folks in Shannon County
- 14 would get a full day like everybody else?
- 15 **A I can't say. I think the commissioners made that**
- 16 **time when they made the motion and that's what we**
- 17 **did.**
- 18 **Q** Okay. All right. So there was a total of how many
- 19 days for the 2008 primary, ma'am?
- 20 **A Two.**
- 21 **Q** One day at Pine Ridge, one day at Kyle?
- 22 **A Correct.**
- 23 **Q** And they were each five-hour days?
- 24 **A Correct.**
- 25 **Q** All right. For the 2008 general election, how many

- 1 days of absentee voting in Shannon County were there?
- 2 **A Two.**
- 3 **Q** What days were those?
- 4 **A We were in Pine Ridge on October 23rd, and in Kyle on**
- 5 **October 24th.**
- 6 **Q** Were those full days?
- 7 **A 10 to 3.**
- 8 **Q** Why weren't they full days, ma'am?
- 9 **A Again, I would assume to give us time to get down**
- 10 **there and get back within our eight-hour day.**
- 11 **Q** Why not use HAVA funds to go ahead and pay some
- 12 overtime?
- 13 **A I think that was in the motion of what the**
- 14 **commissioners made.**
- 15 **Q** Did you ever let them know, We could use HAVA funds
- 16 for overtime to pay folks to get there two hours, you
- 17 know, and allow for all of the necessary travel time?
- 18 **A I can't -- I can't say if I did or not.**
- 19 **Q** Don't remember?
- 20 **A Don't remember.**
- 21 **Q** All right. When you look at the 2010 primary
- 22 election, there were no days of absentee voting in
- 23 Shannon County?
- 24 **A Correct.**
- 25 **Q** Why?

1 **A I don't believe the commissioners made a motion to**  
 2 **request it.**  
 3 **Q** Back to the 2008 general election, on the two days of  
 4 absentee voting in Shannon County, was registration  
 5 available at those absentee voting locations on those  
 6 days?  
 7 **A I can't say from the dates, but I would think no.**  
 8 **Q** Because it's so close to the election?  
 9 **A Correct.**  
 10 **Q** When you look at paragraph H, the 2010 general  
 11 election, how many days then?  
 12 **A Twenty-two days.**  
 13 **Q** What were the hours?  
 14 **A We were there from 10:30 to 4.**  
 15 **Q** Do you know how those hours were determined?  
 16 **A I believe it was in the motion the commissioners**  
 17 **made.**  
 18 **Q** Any idea why instead of going from 10 to 3 it was  
 19 from 10:30 to 4?  
 20 **A I don't recall. I don't recall why.**  
 21 **Q** All right. And then how many days of early voting  
 22 did Fall River registered voters get in-person  
 23 in-county in 2010 for the primary general?  
 24 **A They had their six weeks, excluding the holidays and**  
 25 **weekends.**

1 **this was convenient when we were physically in**  
 2 **Shannon County.**  
 3 **Q** All right. If it was more convenient, why didn't you  
 4 try harder to go ahead and have more days of absentee  
 5 voting in Shannon County?  
 6 **A For all of the years or --**  
 7 **Q** Any time?  
 8 **A Any specific? Again, I went by -- when I was the**  
 9 **auditor, I went by the motion the commissioners made.**  
 10 **Q** Has anyone ever suggested to you or talked to you  
 11 that let's limit the number of absentee voting days  
 12 for voters in Shannon County?  
 13 **A No.**  
 14 **Q** Has anyone ever told you they don't need the same  
 15 number of days as residents or registered voters in  
 16 other states?  
 17 **A I never heard anybody say that, no.**  
 18 **Q** Have you ever been -- observed or witnessed any  
 19 efforts to go ahead and restrict absentee voting at  
 20 absentee voting locations to the number of days in  
 21 Shannon County?  
 22 **A If I understand you correctly, I would say no.**  
 23 **Q** Have you ever heard any discussions or been part of  
 24 any discussions with anybody regarding why Shannon  
 25 County registered voters get less days of in-person

1 **Q** Same question for the 2008 primary and general  
 2 election?  
 3 **A Same answer.**  
 4 **Q** They've got the full six-week period?  
 5 **A Correct.**  
 6 **Q** And then for the 2006 election cycle, Fall River  
 7 folks, Fall River registered voters, how many days of  
 8 absentee in-person voting did they get?  
 9 **A They had the six weeks, excluding weekends and the**  
 10 **holiday.**  
 11 **Q** Same question for the 2004 election cycle?  
 12 **A I believe the same.**  
 13 **Q** Six weeks?  
 14 **A Yes.**  
 15 **Q** All right. In interrogatory number 3, you were asked  
 16 a series of questions regarding the number of folks  
 17 that voted in person?  
 18 **A Yes.**  
 19 **Q** Do you think that having more days of absentee voting  
 20 locations in Shannon County makes it easier for  
 21 Shannon County registered voters to vote?  
 22 **A I think it's an added convenience, yes.**  
 23 **Q** Why do you think it's an added convenience?  
 24 **A Well, there's different ways of getting your ballot,**  
 25 **one being mail. One being come to Hot Springs. And**

1 in-county access than other counties?  
 2 **A I don't recall, no.**  
 3 **Q** You don't remember a single conversation with anybody  
 4 about why Shannon County registered voters don't get  
 5 the same number of days as anybody else? Never  
 6 talked with anyone about that?  
 7 **A I don't recall any conversations about that.**  
 8 **Q** Not one, huh?  
 9 **A You know, anything we do in Shannon always goes back**  
 10 **to funding, which obviously was partially resolved in**  
 11 **'08. So I don't recall any specific conversations,**  
 12 **no.**  
 13 **Q** When you said it was partially resolved in '08?  
 14 **A Um-hmm.**  
 15 **Q** Why didn't that e-mail completely resolve it?  
 16 **A Because in '08, they still only allowed only overtime**  
 17 **costs and not the eight hours regular office.**  
 18 **Q** All right. So let's talk about that expense. So  
 19 there's approximately 32 days of early voting before  
 20 each election cycle, correct?  
 21 **A Approximately, yes.**  
 22 **Q** So that's 64. 64 days?  
 23 **A Yes.**  
 24 **Q** You've got to pay the average worker about 10 bucks  
 25 an hour, \$10 an hour?

- 1 **A 8 to 10.**
- 2 **Q** 8 to 10?
- 3 **A Somewhere in there.**
- 4 **Q** Let's split it down the middle, 9.
- 5 **A Okay.**
- 6 **Q** All right. And you want two workers there, not one,
- 7 correct?
- 8 **A And I'm sorry. Coming back up, are we talking people**
- 9 **we hire from down there or people from my staff?**
- 10 **Q** People that meet the minimum requirements to staff an
- 11 absentee voting location in Shannon County.
- 12 **A But excluding my office people?**
- 13 **Q** Right. You wouldn't have had to pay a nickel, would
- 14 you, if you just hired someone new and trained them?
- 15 Then that would have been reimbursed by HAVA,
- 16 correct?
- 17 **A Any people we hired down there, yes, would have been**
- 18 **reimbursed.**
- 19 **Q** So as far as you know, during the 2008 election cycle
- 20 or the 2010 election cycle, you could have went ahead
- 21 and just hired several folks to go ahead and train
- 22 them to staff those absentee voting locations in
- 23 Shannon County and that would have been reimbursed by
- 24 HAVA?
- 25 **A If a situation would work that way. But I would --**

- 1 **someone from my office would be taking ballots down**
- 2 **there daily and returning ballots to my office.**
- 3 **Q** Okay. So my question is -- I thought I heard you
- 4 testify a little earlier that not all of the costs
- 5 were covered by HAVA for absentee voting. Staffing
- 6 costs were not covered if you used your own staff?
- 7 **A Correct.**
- 8 **Q** All right. So we're going to go through this and
- 9 talk about if you didn't use your own staff and you
- 10 hired new people.
- 11 **A We can talk, but it's not going to happen.**
- 12 **Q** Explain.
- 13 **A I will not physically leave Shannon County ballots**
- 14 **down there and I will always bring them back to my**
- 15 **office daily.**
- 16 **Q** For ballot security concerns?
- 17 **A Correct.**
- 18 **Q** And that's a Sue Ganje rule?
- 19 **A That's correct.**
- 20 **Q** Not required by South Dakota election rules and regs?
- 21 **A I'm not aware of other counties that would have**
- 22 **ballots leave their courthouse, so I can't say -- I**
- 23 **don't think there's a state law, no.**
- 24 **Q** All right.
- 25 **A Those are my rules, yes.**

- 1 **Q** Okay. So let's use your rule --
- 2 **A Okay.**
- 3 **Q** -- that you don't -- and that's not backed up by
- 4 anything that you're aware of, right?
- 5 **A That's correct.**
- 6 **Q** All right. But even using your rule --
- 7 **A Um-hmm.**
- 8 **Q** -- you're going ahead and you could hire folks to
- 9 attend and administer those locations in Shannon
- 10 County, correct? You could hire them and HAVA funds
- 11 could be used for it and then you would pay someone
- 12 to go get the ballots and come back?
- 13 **A The ballots are always going to be under the -- under**
- 14 **myself or one of my staff.**
- 15 **Q** All right. So under your rule, you refused to go
- 16 ahead during the 2006, 2010 and -- 2006, 2008, 2010
- 17 election cycle, you went ahead and refused to go
- 18 ahead and hire anyone outside your staff to go ahead
- 19 and administer those early voting locations in
- 20 Shannon County?
- 21 **A No. You need to break that down a little bit. I'm**
- 22 **not going to admit I refused. Can you break your**
- 23 **question down, please?**
- 24 **Q** Sure.
- 25 **A Okay.**

- 1 **Q** 2010, did you hire anybody from outside your staff to
- 2 man the early voting locations in Shannon County?
- 3 **A In '10, no.**
- 4 **Q** Why not?
- 5 **A With the response that we got and the need that we**
- 6 **had, we didn't need to hire anybody else.**
- 7 **Q** Well, there were no days of early voting before the
- 8 2010 primary election. What do you mean you didn't
- 9 need anybody?
- 10 **A You're talking about when we were down there for the**
- 11 **general election?**
- 12 **Q** No. I'm talking -- what I'm asking and trying to
- 13 figure out is if you ever hired anyone outside your
- 14 office to facilitate or to administer an early voting
- 15 location in Shannon County during the 2010 election
- 16 cycle?
- 17 **A No.**
- 18 **Q** Okay. My question, again, why not, you said we
- 19 didn't need it?
- 20 **A We didn't need any additional help down there.**
- 21 **Q** Okay. Why? Because you had 22 days of early voting
- 22 in Pine Ridge, correct?
- 23 **A Correct.**
- 24 **Q** And those days were only from 10:30 to 4?
- 25 **A Correct.**



1 Q Why didn't you hire someone locally?

2 A **We didn't have the need to.**

3 Q Right. But I thought you said that there was a money

4 concern, that your funding, if it went to your staff,

5 HAVA funds couldn't be used for that, correct?

6 A **That's correct.**

7 Q All right. So you could have saved a bunch of money,

8 right, by hiring and training someone down there and

9 HAVA would have reimbursed that, correct?

10 A **We didn't bill Shannon County. Fall River County did**

11 **not bill Shannon County for the days we were down**

12 **there in '10 or any of the prior days --**

13 Q Right.

14 A **-- or years.**

15 Q But my question is, when we're talking about how much

16 it takes to staff a location, why wouldn't, during

17 the 2010 election cycle, you hire folks down there to

18 go ahead and man the early voting location if HAVA

19 funds would pay for it?

20 A **Because it was still going to be somebody from**

21 **Hot Springs going down there daily to take the**

22 **ballots down and return them. My policy was two**

23 **people going and we didn't have the need for more**

24 **than two people.**

25 Q I don't understand.

1 drive early to Pine Ridge from 6 to 8, drop off the

2 ballots, and let those trained workers that could

3 have been paid for by HAVA administer the election.

4 Your folks could have drove back and then drove back

5 again to pick up the ballots. Why didn't you do

6 that?

7 A **Well, that wouldn't make sense to me.**

8 Q Why?

9 A **Why would I send somebody to drive down, drop it off,**

10 **come back, go back down and pick them up and come**

11 **back?**

12 Q To get the money -- wouldn't it make sense, though,

13 to get money to pay for the workers down there so the

14 Shannon County registered voters could have the same

15 number of in-person in-county absentee voting days as

16 all of the other people in the state?

17 A **Well, we complied with what the commissioners asked**

18 **as far as hours wise. And I just wouldn't see a**

19 **point in driving down there and dropping things off**

20 **and coming back.**

21 Q Would it make it easier for Shannon County registered

22 voters to vote if the voting hours were from 8 to 5

23 like in Fall River County?

24 A **We had the hours 8 to 5 this primary and we had a**

25 **very slow turnout. So I can't predict how easy it**

1 A **I may not understand your questioning.**

2 Q There was a funding issue, correct, in 2010?

3 A **Always a funding issue, yes.**

4 Q For absentee voting, paying for absentee voting

5 locations in Shannon County, it was a funding issue?

6 Yes?

7 A **Everything is always a funding issue in Shannon**

8 **County.**

9 Q So that's yes?

10 A **That's yes.**

11 Q All right. So you have a pile of money available

12 over here from HAVA that they will go ahead and pay

13 for you to hire folks to man early voting locations

14 in Shannon County, correct?

15 A **That's correct, yes.**

16 Q But you didn't want that money because you wanted

17 your office staff to deliver the ballots and retrieve

18 the ballots from Hot Springs?

19 A **It's not a matter of not wanting that money. Ballots**

20 **were not going down there or brought back without my**

21 **office staff and they were not charged for -- the**

22 **only charge that Shannon County reimbursed Fall**

23 **County was for the overtime costs.**

24 Q Okay. So why didn't you have your workers from

25 Shannon County -- or from Hot Springs on overtime

1 **would be.**

2 Q Do you know if anyone voted from 8 to 10?

3 A **I can't say.**

4 Q Do you know if anyone voted from 3 to 5 p.m.?

5 A **I cannot say without looking at a log.**

6 Q All right. So even under your rule --

7 A **Yes.**

8 Q -- that two people from your office had to do things?

9 A **Um-hmm.**

10 Q All right? What two people did you normally send

11 down there?

12 A **It varied.**

13 Q What was the vary in wage for the people that you

14 sent down there?

15 A **Our wages vary in our county.**

16 Q All right. So any secretary could do this if you

17 trained them for two hours, correct?

18 A **Anybody in my office who works with elections and**

19 **have been trained could do that, yes.**

20 Q So who was qualified in your office? I don't need to

21 know their names. I need to know the positions. Who

22 from your office --

23 A **The majority of the people were my election clerks.**

24 Q How much do you pay an election clerk?

25 A **We have a union scale in Fall River County starting**

1 **at \$9 and going up.**  
 2 **Q** Up to what?  
 3 **A I can't -- I don't know our exact scale. I think my**  
 4 **election clerk in 2010 was right around 11 or \$12 an**  
 5 **hour.**  
 6 **Q** All right. Is it fair to say that the average wage  
 7 for an election clerk is about 11 bucks an hour?  
 8 **A Not necessarily.**  
 9 **Q** What's the average wage for an election clerk in your  
 10 office?  
 11 **A Well, when they start, it's \$9 an hour. But their**  
 12 **wage increases depending on how many years they work**  
 13 **there.**  
 14 **Q** You have no idea what the average wages are for an  
 15 election clerk in your office?  
 16 **A I had an election clerk in June and she was paid \$9**  
 17 **an hour.**  
 18 **Q** All right. So using the \$9 an hour amount, all  
 19 right, what is the cost? And you need to have two  
 20 people, correct?  
 21 **A That's correct.**  
 22 **Q** All right. So that would be about 18 or \$20 an hour,  
 23 correct?  
 24 **A If I was with them, then Shannon County, there's no**  
 25 **cost to Shannon.**

1 **A -- excluding any matching figures.**  
 2 **Q** So that's about less than \$11,000, correct, for  
 3 staffing an early voting location that the county had  
 4 to pay for an entire election cycle?  
 5 **A Based on those figures.**  
 6 **Q** Yes.  
 7 **A Yes.**  
 8 **Q** Okay. And HAVA would reimburse everything else,  
 9 correct?  
 10 **A If that was one of their criterias that they**  
 11 **reimburse, yes.**  
 12 **Q** No. I'm asking you, from the electronic  
 13 correspondence, your understanding of the HAVA plan,  
 14 would that cover -- if the county paid 10,000 --  
 15 roughly, \$10,500 per election cycle for those -- you  
 16 know, for the staffing costs, HAVA, as far as know,  
 17 would pay for everything else?  
 18 **A Yes.**  
 19 **Q** Okay. And you would only have incurred those costs  
 20 once every two years, correct?  
 21 **A That's correct.**  
 22 **Q** So all of the county would have to do is allocate,  
 23 approximately, \$5500 annually of their own funding to  
 24 give Shannon County registered voters the same number  
 25 of in-person in-county voting days as everybody else?

1 **Q** So at the most, it would be about \$20 per hour for  
 2 you to have two election clerks staffing an absentee  
 3 voting location in Shannon County?  
 4 **A Based on the average of \$10 an hour, two people, \$20**  
 5 **an hour would be correct.**  
 6 **Q** All right. And this would be money that you would  
 7 have to pay, that the county would have to pay,  
 8 because that wouldn't be eligible for HAVA  
 9 reimbursement consistent with your earlier testimony?  
 10 **A Exactly.**  
 11 **Q** Okay. All right. So now that's \$20 an hour for  
 12 eight hours a day, correct? And the rest of the  
 13 money would be picked up by overtime. The overtime  
 14 could be picked up by HAVA funds?  
 15 **A Correct.**  
 16 **Q** All right. So eight times \$20, that's about \$160 a  
 17 day that the county would have to pay for staffing an  
 18 early voting location for one day?  
 19 **A Based on the averages we spoke of, yes.**  
 20 **Q** Okay. And you take that number times 32, that's  
 21 about \$5,120 per election cycle -- or per for the  
 22 primary and then another \$5,120 for the general,  
 23 correct?  
 24 **A Salary only --**  
 25 **Q** Yes.

1 (A brief pause.)  
 2 **A I'm sorry. I need to back up again there before I**  
 3 **concur.**  
 4 MR. SANDVEN: Can you read the question again?  
 5 **Q** Here's a calculator, here's a piece of paper, and  
 6 here's a pen.  
 7 (Question: "So all of the county would have to  
 8 do is allocate, approximately, \$5500 annually of  
 9 their own funding to give Shannon County registered  
 10 voters the same number of in-person in-county voting  
 11 days as everybody else?" read by the reporter.)  
 12 (A brief pause.)  
 13 **Q** I'm not asking her. I'm asking you.  
 14 **A I know you are.**  
 15 **Q** You have a calculator, you have a piece of paper.  
 16 **A And I'm fine with going back over the figures you**  
 17 **had. I just wanted to go back over those before I**  
 18 **concur with your question.**  
 19 MR. SANDVEN: Can you read the question back  
 20 again, ma'am?  
 21 (Question: "So all of the county would have to  
 22 do is allocate, approximately, \$5500 annually of  
 23 their own funding to give Shannon County registered  
 24 voters the same number of in-person in-county voting  
 25 days as everybody else?" read by the reporter.)

1 (A brief pause.)  
 2 **A I'm sorry. I'm sorry. I need more time with this.**  
 3 **Q** Take your time, ma'am.  
 4 **A So we're basing this on two people, approximately, \$9**  
 5 **an hour. And we're talking -- were we talking the**  
 6 **whole 32 days?**  
 7 **Q** Yes, for the primary. 32 days for the general.  
 8 **A And your question was 5100, \$5500 that they would**  
 9 **have to allocate?**  
 10 **Q** Yeah. If the Shannon County commission went ahead  
 11 and allocated, they would only have to allocate \$5500  
 12 annually and that could fund an absentee voting  
 13 location in its entirety with HAVA funding  
 14 supplementing it where those folks in Shannon County  
 15 would get the same number of in-person in-county  
 16 voting days, absentee voting days as everybody else?  
 17 **A And we had come to 11,000 on wages on that. I**  
 18 **apologize. My mind...**  
 19 **Q** Take your time. We're going to stay here until we  
 20 get it figured out.  
 21 **A Okay. Do you want to go back through your figures**  
 22 **again?**  
 23 **Q** Yes, ma'am.  
 24 **A All right. Please.**  
 25 **Q** What I've learned from you today is that the South

1 **in '04 when we went down there. We had a really full**  
 2 **staff of people in '08, still counting there was two**  
 3 **people from my office, but we hired other additional**  
 4 **people, local people down there. So I just -- you**  
 5 **know, I won't answer to me refusing to hire people**  
 6 **from down there, because it has been done.**  
 7 **Q** Okay. So you have the discretion to go ahead and  
 8 hire people locally in Shannon County to fulfill and  
 9 administer elections down there, correct?  
 10 **A To assist in providing early voting.**  
 11 **Q** And that's your discretion?  
 12 **A That's correct.**  
 13 **Q** All right. So even if you didn't want to exercise  
 14 your discretion in hiring people over there and you  
 15 wanted to use existing staff --  
 16 **A Yes.**  
 17 **Q** -- to go ahead and deliver the ballots at 8 o'clock  
 18 in the morning and start the hours at 8 o'clock in  
 19 the morning --  
 20 **A Yes.**  
 21 **Q** -- and stay there until 5, HAVA would go ahead and  
 22 pay for the overtime, correct?  
 23 **A Prior to '12, yes.**  
 24 **Q** Prior to --  
 25 **A Prior to 2012, yes.**

1 Dakota Secretary of State will fund everything  
 2 associated --  
 3 **A Now, yes.**  
 4 **Q** Yep. From 2008 on, will fund everything from Title  
 5 II funds associated with an absentee voting location  
 6 in Shannon County except for staffing costs that you  
 7 are already incurring. Okay?  
 8 **A Which was?**  
 9 **Q** Not including overtime, correct?  
 10 **A For '08 and '10, yes.**  
 11 **Q** And then I thought I heard you say that it was your  
 12 rule that you weren't going to hire local folks to  
 13 staff the location. That you would only use people  
 14 from your office, correct?  
 15 **A Can I expound on that?**  
 16 **Q** No. I want to just get through the math here,  
 17 otherwise we're going to be here a long time.  
 18 MS. FRANKENSTEIN: I'm going to object. You've  
 19 asked a question. I would like my witness to be able  
 20 to answer the question as best as she can.  
 21 **Q** Go ahead.  
 22 **A Can I go back to your question of my rule refusing to**  
 23 **hire other people down there?**  
 24 **Q** Absolutely.  
 25 **A Okay. It has been done. We hired additional people**

1 **Q** And '08, correct? They said they would do it in  
 2 2008, also, didn't they?  
 3 **A They did the overtime, yes.**  
 4 **Q** Right.  
 5 **A The overtime.**  
 6 **Q** And in 2010, they were willing to do it?  
 7 **A Yes.**  
 8 **Q** That didn't change?  
 9 **A That's correct.**  
 10 **Q** All right. So in the last three election cycles,  
 11 '08, 2010, 2012, even if you wanted to use your own  
 12 office staff to go ahead and man the early voting  
 13 location in Shannon County from 8 to 5 for the full  
 14 32 days or so before the primary, the full 32 days or  
 15 so before the general, all you would have to pay for  
 16 is your staff hourly wages from 8 to 5, correct?  
 17 HAVA would pay for the rest?  
 18 **A Yes.**  
 19 **Q** Okay.  
 20 **A Yes.**  
 21 **Q** So now we've got all that figured out. Now, we just  
 22 have to get down to the issue of what would you have  
 23 to pay your staff or trying to figure out an estimate  
 24 for paying your staff, how much would it cost a day  
 25 to go ahead from 8 to 5 and get them down there --

- 1 because the county would be paying for that, correct?
- 2 **A Correct.**
- 3 **Q** Not HAVA?
- 4 **A (The witness indicated.)**
- 5 **Q** All right.
- 6 **A But they did approve in '12. And if that goes**
- 7 **forward, then that would be better. That would be**
- 8 **better yet.**
- 9 **Q** Well, let's start -- before we get to the better yet.
- 10 **A Okay.**
- 11 **Q** All right?
- 12 **A So we figured --**
- 13 **Q** About \$10 an hour for an election clerk?
- 14 **A Yes.**
- 15 **Q** And you want two of your election clerks down there
- 16 at an early voting location, correct?
- 17 **A Correct.**
- 18 **Q** So that's about \$20 an hour?
- 19 **A Yeah.**
- 20 **Q** Total for those two clerks?
- 21 **A Yes.**
- 22 **Q** And eight hours a day you would get stuck paying,
- 23 correct?
- 24 **A That's right.**
- 25 **Q** So that's about \$160 per day for two election clerks

- 1 from 8 to 5 that you would have to pay?
- 2 **A Yes.**
- 3 **Q** All right. Can you take 160 times 32?
- 4 **A 5120.**
- 5 **Q** All right. But that's just for the primary, isn't
- 6 it? You still have to pay that amount for the
- 7 general, correct?
- 8 **A Correct.**
- 9 **Q** So how much per election cycle total would you have
- 10 to go ahead and pay your staff to do what I'm asking
- 11 here?
- 12 **A Well, going on that, it would be the 10,000, 11,000.**
- 13 **But are we going with the new allocation?**
- 14 **Q** Not yet. Not yet.
- 15 **A Okay.**
- 16 **Q** So a total of \$11,000 per election cycle you would
- 17 have to pay your staff --
- 18 **A Yes.**
- 19 **Q** -- approximately, to go ahead and fund an absentee
- 20 voting location in Shannon County for the same number
- 21 of days as everybody else, correct?
- 22 **A Yes. Yes.**
- 23 **Q** All right. Then you don't have to pay that every
- 24 year, correct, because there's only an election cycle
- 25 every two years?

- 1 **A That is correct, yes.**
- 2 **Q** All right. So you would only have to allocate as a
- 3 county, approximately, \$5500 per year to absentee
- 4 voting in Shannon County, correct?
- 5 **A That's -- okay. Now I got that, where you're going.**
- 6 **Q** Is that correct?
- 7 **A Using that assumption, yes, that would be correct.**
- 8 **Q** Is there anything you disagree with in this
- 9 assumption or this estimate?
- 10 **A What we just went over, I agree with, yes.**
- 11 **Q** Okay. So does anyone understand over there before
- 12 this litigation started that's all it cost, 5,000,
- 13 \$5500 a year?
- 14 **A Well, I really can't say -- that's where you threw me**
- 15 **was the per year.**
- 16 **Q** Yeah.
- 17 **A I mean, you've got to count the expenses in the year**
- 18 **they're incurred.**
- 19 **Q** Okay. And I'll ask it differently.
- 20 **A Okay.**
- 21 **Q** Did the folks down in Shannon County, Fall River
- 22 County, your office, did they understand that it was
- 23 only \$11,000 they had to pay every two years to go
- 24 ahead and give the Shannon County registered voters
- 25 the same thing that everybody else got?

- 1 **A Well, it's a simple thing in most counties, but in**
- 2 **Shannon County, \$11,000 is a lot of money.**
- 3 **Q** Okay. What is the total cost for an early voting
- 4 location in Shannon County, total cost? I know what
- 5 the staffing cost is.
- 6 **A Um-hmm.**
- 7 **Q** Have you ever figured out what the total cost is for
- 8 staffing an absentee voting location in Shannon
- 9 County for the entire 64 days of an election cycle?
- 10 **A Well, at this point, it happened and I haven't had**
- 11 **time to really sit down and analyze to get all -- to**
- 12 **determine that so I can answer your question with a**
- 13 **figure right off my head.**
- 14 **Q** All right. I'm not sure -- I'm not sure what you
- 15 just said. Have you ever researched how much the
- 16 total cost is of funding an absentee voting location
- 17 in Shannon County for 64 days through an entire
- 18 election cycle?
- 19 **A I've never had 64 days in a year to totally analyze**
- 20 **the cost.**
- 21 **Q** Okay. Have you ever figured out how much it cost per
- 22 day?
- 23 **A When we've gone through one primary, no. So I've got**
- 24 **half that cost.**
- 25 **Q** Oh, okay. Teach me how much this 2012 -- this 32

1 days, how much did this cost during the recent  
 2 primary?  
 3 **A I'm sorry. That's what I said, I haven't had time to**  
 4 **sit back now that the election is over and there was**  
 5 **some bills still coming in to give you that figure.**  
 6 **Q** Let's talk about the bills that you do know.  
 7 **A Okay.**  
 8 **Q** What bills do you know? Because that election, that  
 9 32 days, it's been about a month and a half ago,  
 10 right?  
 11 **A It was the beginning of June, yes.**  
 12 **Q** So what bills are still left to come in, do you  
 13 think?  
 14 **A I think we've got all of the bills paid now.**  
 15 **Q** All right. Let's talk about all of those bills.  
 16 What was the largest expense? And I'm not going to  
 17 get into what HAVA does and what you do. We already  
 18 went through all of that. I just want to know, what  
 19 was the largest expense associated with absentee  
 20 voting in Shannon County for the 2012 primary  
 21 election?  
 22 **A The largest, I would say, would be salaries.**  
 23 **Q** And so that would be you funding two clerks?  
 24 **A Um-hmm.**  
 25 **Q** For 32 days, eight hours a day?

1 **A Everything.**  
 2 **Q** -- \$10,000 for the 32 days?  
 3 **A Yes, approximately.**  
 4 **Q** What were the other expenses?  
 5 **A Well, the other expense, mileage.**  
 6 **Q** All right. And that's about 37 cents a mile under  
 7 the State plan?  
 8 **A Yes.**  
 9 **Q** All right. Did each clerk drive their own car down  
 10 there or did they ride share?  
 11 **A They shared the ride, yes.**  
 12 **Q** All right. Was there ever a county vehicle that  
 13 drove them partway?  
 14 **A What we did is we drove the Fall River County vehicle**  
 15 **to Oelrichs, which is 25 miles away. From there, we**  
 16 **picked up our Shannon County Deputy Sheriff vehicle**  
 17 **and drove from Oelrichs to Pine Ridge and then back**  
 18 **and then switched and then back.**  
 19 **Q** All right. So just so I'm sure, so you used a Fall  
 20 River vehicle to get them to Oelrichs?  
 21 **A Yes.**  
 22 **Q** And then a Shannon River (sic) vehicle to get them to  
 23 Pine Ridge?  
 24 **A Correct.**  
 25 **Q** And so did you have to pay for that mileage then or

1 **A Well, how do you want me to put this? We know now**  
 2 **that all of the salaries are reimbursed. Initial**  
 3 **expenses, that would be the largest expense, but...**  
 4 **Q** So that would be an approximately 5- to \$6,000? We  
 5 just went through that?  
 6 **A We did. All I can say is that we had, approximately,**  
 7 **11 -- approximately \$11,000 that Fall River County**  
 8 **billed to Shannon County. And then Shannon County,**  
 9 **of course, had other expenses, supplies and whatnot**  
 10 **on top that are now being reimbursed through HAVA.**  
 11 **Q** All right. Let's stick with the salary. Do you  
 12 know, approximately, how much you paid in salary for  
 13 the 2012 primary election cycle? What did you pay in  
 14 wages to your folks, would you estimate?  
 15 **A Well, we had to pay close to \$10,000.**  
 16 **Q** For --  
 17 **A Work.**  
 18 **Q** Just for salaries?  
 19 **A For salaries, yes.**  
 20 **Q** All right. Because -- now I don't --  
 21 **A Salaries including overtime.**  
 22 **Q** Oh, that included everything?  
 23 **A Everything, yeah. Yeah.**  
 24 **Q** And all of the overtime, everything, was  
 25 approximately --

1 was that --  
 2 **A So Shannon County paid for the mileage. They,**  
 3 **basically, paid gas from Oelrichs to Pine Ridge and**  
 4 **back. And Shannon County reimbursed Fall River**  
 5 **County the 37 cents a mile from Hot Springs to**  
 6 **Oelrichs and back to Hot Springs.**  
 7 **Q** All right. So every day you paid 30 cents a mile to  
 8 get your folks from Hot Springs to Pine Ridge and  
 9 back?  
 10 **A No. Every day we paid 37 -- Shannon County**  
 11 **reimbursed Fall River 37 cents a mile for,**  
 12 **approximately, 50 miles. And then they paid gas.**  
 13 **And I can't say how much that was from Oelrichs to**  
 14 **Pine Ridge and then back to Oelrichs.**  
 15 **Q** Do you think it all averaged out pretty close to the  
 16 State rate of 37 cents a mile?  
 17 **A I'd have to look at what we actually paid in gas for**  
 18 **the Shannon vehicle.**  
 19 **Q** Okay.  
 20 **A And I don't know.**  
 21 **Q** Do you know total about how much you paid for mileage  
 22 for those -- you know, in travel and all those  
 23 expenses you just described, what would you estimate  
 24 you paid for the 32 days of early voting?  
 25 **A I just know we billed Shannon County like \$11,000,**

1 **which included meals and salaries.**  
 2 **Q** Oh. So all of the gas and per diem was only an extra  
 3 1,000 bucks from the 10,000?  
 4 **A** **And I'm -- off the top of my head, but I don't have**  
 5 **the facts in front of me.**  
 6 **Q** Okay. So now we're up to about \$11,000?  
 7 **A** **Um-hmm.**  
 8 **Q** Was there any other costs associated with absentee  
 9 voting in Shannon County?  
 10 **A** **Okay. To clarify, you're just talking cost or costs**  
 11 **that were reimbursed by HAVA or --**  
 12 **Q** Nope. Nope. Just costs. Here's what I'm trying to  
 13 get to --  
 14 **A** **Okay.**  
 15 **Q** -- at the end of this and we'll go to lunch. I just  
 16 want to figure out how much it costs to go ahead and  
 17 pay for -- you know, what does it cost for 32 days of  
 18 early voting in Shannon County?  
 19 **A** **Okay.**  
 20 **Q** So what's the other expenditures, ma'am?  
 21 **A** **And understanding that we have our Lakota coordinator**  
 22 **down there, too, and those two kind of fit together,**  
 23 **but we had -- we paid \$4,000 in rent this year.**  
 24 **Q** That was for the full election cycle?  
 25 **A** **For the full election cycle, which also included --**

1 **in my mind, I'm putting half to early voting and half**  
 2 **to our Lakota coordinator. So I -- it's kind of fees**  
 3 **because --**  
 4 **Q** Understood. Is it fair for me to say that of that  
 5 \$4,000, \$1,000 of that went specifically to absentee  
 6 voting in Shannon County for the 2012 primary?  
 7 **A** **That would be a good estimate.**  
 8 **Q** All right. So now we're up to -- so now we're up to  
 9 \$12,000, ma'am. Anything else?  
 10 **A** **And I can't say what we spent in supplies.**  
 11 MS. FRANKENSTEIN: I'm going to object to the  
 12 foundation of your question. She talked about the  
 13 coordinator expense and you didn't include that in  
 14 your \$11,000 calculation.  
 15 **A** **And I apologize. I don't have the figures in front**  
 16 **of me to be able to give you exact figures.**  
 17 **Q** Okay. So let's just go ahead on that \$4,000 amount,  
 18 \$1,000 would go for half the rent, right? Because  
 19 this was just a primary?  
 20 **A** **Taking the 4 with the two programs --**  
 21 **Q** And even if --  
 22 **A** **-- right.**  
 23 **Q** And out of that 4,000 and then another 1,000 of that  
 24 during the primary went to the Lakota coordinator?  
 25 **A** **Correct.**

1 **Q** All right. So now let's say we're up to 12 -- 11 --  
 2 13,000. What other expenses went along with those 32  
 3 days, ma'am?  
 4 **A** **Well, we had the phone.**  
 5 **Q** Do you have any idea how much a phone is down there?  
 6 Is it a hard wire or cell phone?  
 7 **A** **It was a hard -- it was a hard wired phone that gave**  
 8 **us a DSL so it was, approximately, 80 bucks plus**  
 9 **installation.**  
 10 **Q** Okay.  
 11 **A** **Somewhere in that figure per month.**  
 12 **Q** All right. And we'll say you had to pay that for two  
 13 months during the primary, correct?  
 14 **A** **Yes.**  
 15 **Q** So there's \$160. Anything else? We're up to 13,160  
 16 now.  
 17 **A** **And I can't say what the supplies were. We had to**  
 18 **buy some supplies for down there, but...**  
 19 **Q** Are you talking paperclips and pencils and basic  
 20 supplies?  
 21 **A** **Basic office supplies, yes.**  
 22 **Q** So that might be another \$100 to put the supplies in  
 23 the desk, maybe more?  
 24 **A** **Maybe more.**  
 25 **Q** 200?

1 **A** **I wish I had figures to be giving, but...**  
 2 **Q** Could we estimate 200 for paperclips and pencils?  
 3 **A** **We could put that down.**  
 4 **Q** All right.  
 5 MS. FRANKENSTEIN: Steve, for purposes of  
 6 speeding this along, we'd be happy to give you copies  
 7 of the expenses. So for her to sit and estimate what  
 8 her invoices indicate back at her office, this could  
 9 take us hours. But we'll be happy to give those to  
 10 you.  
 11 MR. SANDVEN: You can provide them. We're almost  
 12 done here.  
 13 **Q** What are the other expenses with absentee voting in  
 14 Shannon County?  
 15 **A** **And we did advertising.**  
 16 **Q** At KILI and the Lakota and some of the papers?  
 17 **A** **(The witness indicated.)**  
 18 **Q** Do you have any idea how much that cost, an estimate?  
 19 **A** **I don't. I don't know.**  
 20 **Q** Okay. Was it over 1,000, do you think?  
 21 **A** **I don't think we received a bill from KILI and I**  
 22 **really can't say what we spent with Lakota Times.**  
 23 **Q** Okay. Anything else, ma'am?  
 24 **A** **Well, at the moment, that's what I can think of.**  
 25 **Q** All right. So what I just added up is less than

1 \$15,000?

2 **A Okay. For one?**

3 **Q** Yeah. That's just the primary.

4 **A That's right.**

5 **Q** So you're probably looking at around \$30,000 total

6 expenditure for funding an absentee voting location

7 for an entire election cycle in Shannon County with

8 the same number of days that everybody else gets?

9 **A Well, I have to include costs for the Lakota**

10 **coordinator. We are in agreement with the Department**

11 **of Justice that if we do early voting, we provide a**

12 **Lakota coordinator.**

13 **Q** How much do you pay her?

14 **A Like \$11 an hour, somewhere in there.**

15 **Q** Okay. Do you know about how much that is during the

16 election cycle?

17 **A I don't know right offhand. I just need to be able**

18 **to get back and look at all of the costs.**

19 **Q** Okay. But it's \$11 an hour. And does she have to

20 staff the absentee voting location the entire

21 election day?

22 **A She's there during the early voting to be able to**

23 **give assistance.**

24 **Q** Right. So you've got the two clerks in your office?

25 **A Um-hmm.**

1 **Q** Right. And then before 2005, I mean, you've been

2 working in different election functions for the last

3 30 years, correct?

4 **A You know, in the office, yes. I didn't attend a lot**

5 **of training in the years I wasn't the election clerk.**

6 **Q** Do you know during your 30 years if the Secretary of

7 State's office has ever denied a request for

8 reimbursement for early voting costs in Shannon

9 County? Have you ever heard of it?

10 **A The first time we submitted any costs for it was in**

11 **'08, when he authorized early voting costs.**

12 MR. SANDVEN: Do you want to stop now or go until

13 12:15?

14 MS. FRANKENSTEIN: Whatever is fine by me.

15 MR. SANDVEN: Do you want to go to lunch now or

16 do you want to go another half hour, ma'am?

17 THE WITNESS: Well, my stomach is growling,

18 but...

19 MR. SANDVEN: Okay.

20 (A lunch recess was taken from 11:50 a.m. to

21 12:50 p.m.)

22 **Q** Interrogatory number 4A, please. You stated that

23 there was no funding for 2004 primary election

24 absentee voting in Shannon County?

25 **A There was no early voting so there was no cost.**

1 **Q** And then you have the Lakota coordinator?

2 **A Correct.**

3 **Q** All right. And the Lakota coordinator duties, are

4 her duties 100 percent to absentee voting?

5 **A Her duties are to assist the elderly in their voting**

6 **and we're doing early voting, so everything she is**

7 **doing there is assisting them in the voting.**

8 **Q** Does HAVA pay for her?

9 **A It does.**

10 **Q** 100 percent for her?

11 **A Yes.**

12 **Q** Okay. And all you do is keep -- she turns in her

13 hours to you?

14 **A She does.**

15 **Q** You put them on a reimbursement form and you submit

16 them to Secretary Gant?

17 **A Yes.**

18 **Q** Have you ever had a reimbursement form denied by the

19 Secretary of State's office?

20 **A Well, not that I recall.**

21 **Q** All right. Since you've been county auditor, you've

22 never had a reimbursement form for early voting in

23 Shannon County denied?

24 **A Not that I'm aware of. For the allowable expenses**

25 **that were turned in.**

1 **Q** Do you know if any cost -- any funding was ever

2 solicited?

3 **A Do you mean what -- I'm not sure what you mean.**

4 MR. SANDVEN: Can you read the question back?

5 (Question: "Do you know if any funding was ever

6 solicited?" read by the reporter.)

7 **A No.**

8 **Q** Okay. And then for the 2004 general election, you

9 responded that it cost an estimated at least \$12,000

10 identifiable at this time. What does that mean?

11 **A That means that all of our expenses were all in the**

12 **same records and from going through what I could pull**

13 **out that were the early voting -- particular the**

14 **early voting, those are what I could pull out. I'm**

15 **not sure.**

16 **Q** All right. So in the 2004 general election, you

17 thought early voting, actual early voting costs in

18 Shannon County were approximately \$12,000?

19 **A 12,000 were the figures from the printouts that I had**

20 **that were -- that I could identify as early voting**

21 **costs.**

22 **Q** All right. What costs were not identifiable at the

23 time of submitting this?

24 **A You know, we don't have our records from back in '04,**

25 **so if --**

1 Q You don't keep those?

2 A **No. We go by a state retention schedule.**

3 Q So you destroyed these records when?

4 A **They would have been destroyed, I think, like two**

5 **years past an audit in '04. So it would have been**

6 **like in '06 or '07 or so.**

7 Q But as far as you know --

8 A **I had the printout of expenses, but by looking at**

9 **expenses and they were all together combined with the**

10 **normal election costs, those were amounts that --**

11 **without having the vouchers to look at that I could**

12 **identify as early voting costs.**

13 Q All right. But you received \$15,000?

14 A **We did.**

15 Q From Four Directions?

16 A **Yes.**

17 Q And that's a private funding source?

18 A **That was, yes.**

19 Q All right. So you made \$3,000 on the deal as far as

20 you know?

21 A **I can't say. I just couldn't -- there was some**

22 **records I just couldn't tell if it was expenses for**

23 **early voting or other general -- other election**

24 **costs.**

25 Q So as far as you know, early voting or absentee

1 A **I don't believe there was any early voting in Shannon**

2 **County in '06.**

3 Q Why not?

4 MS. FRANKENSTEIN: Asked and answered.

5 Q Go ahead. Why not?

6 A **That went back to we did what the county**

7 **commissioners said.**

8 Q And they never asked for a day?

9 A **They apparently did not.**

10 Q And you don't know why?

11 A **No.**

12 Q All right. During the 2006 general election, zero

13 money was spent by Shannon County?

14 A **That's correct.**

15 Q On absentee voting?

16 A **Correct.**

17 Q So as far as you know, from 2004 through 2006, for

18 both of those election cycles, Shannon County did not

19 spend a nickel of its own money on absentee voting in

20 Shannon County?

21 A **'04 through '06, yes.**

22 Q That's correct?

23 A **I'm going back to I can't guarantee on the '04 costs**

24 **because I couldn't identify all of the costs.**

25 Q But as far as you know, Shannon County did not expend

1 voting locations in Shannon County for the 2004

2 election cycle didn't cost the county a nickel?

3 A **I would agree with that, yes.**

4 Q And as far as you know, you actually made money in

5 2004 off absentee voting in Shannon County?

6 A **Well, I just can't tell. I mean, there were a lot of**

7 **expenses. I just -- there's only so many that were**

8 **directly marked, you know, early voting. So they --**

9 **I'm sure there were other expenses included in the**

10 **other expenses. I just -- looking at them, I**

11 **couldn't say for sure, so I didn't record them.**

12 MR. SANDVEN: All right. Can you read the

13 question back, please?

14 (Question: "And as far as you know, you actually

15 made money in 2004 off absentee voting in Shannon

16 County?" read by the reporter.)

17 MS. FRANKENSTEIN: She answered the question.

18 Q Did you answer it?

19 A **I did.**

20 Q As far as you know?

21 A **As far as I know, I can't say if we made money or**

22 **not.**

23 Q Okay. And then in 2006, during the primary, Shannon

24 County didn't receive a nickel on early voting in

25 Shannon County?

1 a nickel of its own money on absentee voting location

2 in Shannon County, is that correct?

3 A **From the records I could identify, yes.**

4 Q All right. In your deposition, Sue, can you look at

5 page 82?

6 A **Okay.**

7 Q And you were asked at the hearing, Why hasn't Shannon

8 County offered a satellite location with Shannon

9 County in addition to its regular early voting

10 services in the past for a full 46 days? Do you

11 remember getting asked that question?

12 A **(The witness indicated.)**

13 Q Yes?

14 A **Not specifically remember it, but I can see I was**

15 **asked.**

16 Q And then you answered, Everything we deal with

17 Shannon County is financial issues and I believe it's

18 been a financial issue in the past. I don't think we

19 had a reimbursement for HAVA of early voting until

20 2010?

21 A **That was my answer, yes.**

22 Q So it's been a financial issue, you stated?

23 A **Yes.**

24 Q That was incorrect, wasn't it?

25 A **If I only had that much that I could identify, I**



1 **can't say if our expenses were over the 15 or not**  
 2 **because I couldn't identify the records.**  
 3 **Q** Right. But you were incorrect, also, when you said,  
 4 I don't think we had reimbursement until 2010? That  
 5 wasn't true, was it?  
 6 **A** **Not according to the e-mail I saw this morning, no.**  
 7 **Q** All right. So you told the Court it's been a  
 8 financial issue? That's what you testified, it's  
 9 been a financial issue?  
 10 **A** **Yes.**  
 11 **Q** All right. And now you're telling me from '04 to '06  
 12 Shannon County, as far as you know, didn't spend a  
 13 nickel of its own money on early voting in Shannon  
 14 County?  
 15 **A** **From my identifiable records, yes.**  
 16 **Q** And the first time that you had researched the costs  
 17 of early voting in Shannon County are when you  
 18 answered these interrogatories?  
 19 **A** **Yes.**  
 20 **Q** You never looked up those costs before?  
 21 **A** **No. No.**  
 22 **Q** Why?  
 23 **A** **They were all included in all of the costs that we**  
 24 **had and I was never asked to go back and look at**  
 25 **that.**

1 **Q** All right. When you answered this interrogatory, did  
 2 you go look in storage?  
 3 **A** **I did not.**  
 4 **Q** How come?  
 5 **A** **I just went by reviewing the records that I had, my**  
 6 **printouts.**  
 7 **Q** All right. So as far as you know, Shannon County  
 8 spent a total of \$842 during the 2008 primary  
 9 election on absentee voting in Shannon County?  
 10 That's all you know?  
 11 **A** **That's all I know from what I could identify.**  
 12 **Q** All right. Same question for the general election in  
 13 2008. The total cost, that was the total funding  
 14 from Shannon County for 2008 general election for  
 15 absentee voting in Shannon County was \$950?  
 16 **A** **According to what I could identify from my reports,**  
 17 **yes.**  
 18 **Q** How much time did you spend searching your reports to  
 19 determine that amount of \$950?  
 20 **A** **I can't tell you, but I know I spent at the minimum**  
 21 **of two weeks going through these reports and the**  
 22 **questions and my responses.**  
 23 **Q** All right. So for the 2008 -- the entire 2008  
 24 election cycle, Shannon County spent a total, as far  
 25 as you know, of about \$1800 -- or I'm sorry, \$1900

1 **Q** So you were telling the Court it's financial, but you  
 2 had never even researched how much absentee voting  
 3 locations in Shannon County actually cost?  
 4 **A** **Apparently I did, yes.**  
 5 **Q** Okay. All right. So now let's move on to the 2008  
 6 election cycle costs. And this is paragraphs E and F  
 7 under interrogatory number 4.  
 8 **A** **Okay.**  
 9 **Q** All right. So you searched your books to determine  
 10 how much 2008 primary election costs were for Shannon  
 11 County. How much were they?  
 12 **A** **Again, what I could identify, there was \$842 on E's**  
 13 **primary for '08 and 950 for D -- or F, sorry.**  
 14 **Q** All right. And those \$842 that you did identify for  
 15 the 2008 primary election were for what?  
 16 **A** **I would say they were for -- you know, I picked up**  
 17 **some of the mileage and the wages. A lot of those in**  
 18 **'08, we hired extra people.**  
 19 **Q** But you don't have any record of those?  
 20 **A** **Well, the names that I could identify in expenses**  
 21 **from my listing, those were the records that I could**  
 22 **identify.**  
 23 **Q** Have those 2008 records been destroyed already  
 24 pursuant to the South Dakota retention policy?  
 25 **A** **I am not sure if they're in storage or not.**

1 for early voting absentee voting in Shannon County?  
 2 **A** **From what I could identify, yes.**  
 3 **Q** All right. So for the period from 2004 -- for  
 4 election cycles 2004, 2006, 2008, Shannon County  
 5 spent a total of \$1900 of its own money for absentee  
 6 voting in Shannon County?  
 7 **A** **According to what I could see, yes.**  
 8 **Q** That's all you could find?  
 9 **A** **Yes.**  
 10 **Q** It's not a lot of money, is it?  
 11 **A** **I guess it depends who's looking at that cost.**  
 12 **Q** Is that a big financial concern to you, less than  
 13 \$2,000 for three election cycles?  
 14 **A** **I don't -- no. I think that's...**  
 15 **Q** You didn't know it was that small until you prepared  
 16 these interrogatories, did you?  
 17 **A** **Correct.**  
 18 **Q** All right. For the 2010 election cycle, the primary,  
 19 it's not applicable?  
 20 **A** **We did no early voting in the primary of '10.**  
 21 **Q** All right. So you spent zero dollars on early voting  
 22 location in Shannon County during the 2010 primary?  
 23 **A** **Correct.**  
 24 **Q** All right. What was the total spent on absentee  
 25 voting in Shannon County during the 2010 general

1 election?

2 **A In 2010, from what I could tell on our reports, was**

3 **5,229.48.**

4 **Q** All right. When you go to the next page, ma'am.

5 **A Um-hmm.**

6 **Q** It says that the total cost for 2010 early voting,

7 after the amounts that were paid by Shannon County in

8 2012, came to \$7,784.38?

9 **A Yes.**

10 **Q** I don't understand. There were costs for 2010 that

11 were paid during a 2012 cycle?

12 **A That is correct. We had approved our lease agreement**

13 **with the tribe and sent the paperwork with our**

14 **coordinator at that time. And somewhere along the**

15 **line, the paperwork got lost. We did not end up**

16 **paying for our rent in 2010. And then this year they**

17 **came back to us with the billing for \$1500 for our**

18 **rent in 2010 --**

19 **Q** All right. Do you know --

20 **A -- to be paid.**

21 **Q** Oh. Do you know how much of that money was paid by

22 HAVA funds?

23 **A What -- of the 52?**

24 **Q** I'm sorry. The \$7,784.38?

25 **A I do not know at this time without -- without other**

1 **A 4,678.23.**

2 **Q** One more time for me, ma'am?

3 **A 4,678.23.**

4 **Q** All right. So I'm looking at your interrogatory

5 number 4.

6 **A Um-hmm.**

7 **Q** E and F?

8 **A Yes.**

9 **Q** You have less than \$2,000 of identifiable costs for

10 absentee voting in Shannon County, but you received

11 over \$4,000 in HAVA funding for in-person voting in

12 Shannon County?

13 **A Yes. That's what it says.**

14 **Q** So you made money during that period off absentee

15 voting in Shannon County as far as you know?

16 **A Well, I'm not sure if we made money when I'm not**

17 **showing that much of a cost, so I don't know the**

18 **detailed records on what was submitted here.**

19 **Q** But I thought I heard you say you searched the

20 records for a couple weeks and that's all you could

21 find?

22 **A Well, that's what I showed on the reports there. So**

23 **I would have to go back and see what the difference**

24 **is.**

25 **Q** All right. And then on -- when I asked you

1 **records.**

2 **Q** Did you submit a reimbursement form for any of those

3 things?

4 **A I know we submitted -- I'm sure we submitted**

5 **everything allowable of what we paid in 2010 and we**

6 **are submitting the 1500 and the overtime costs of the**

7 **\$1,054.90 this year.**

8 (A brief pause.)

9 **Q** I'm going to hand you what's been marked Exhibit 132.

10 **A Okay.**

11 **Q** Do you recognize these two documents?

12 **A I do.**

13 **Q** All right. So how much HAVA reimbursement did

14 Shannon County get in 2008?

15 **A How much total?**

16 **Q** Yes.

17 **A It looks like close to 32,000.**

18 **Q** Can you tell how much of that went for absentee

19 voting in Shannon County?

20 **A Yes. If I can read the fine print here. Well,**

21 **4,042.27 plus 130.98 and \$505.**

22 **Q** That was just for absentee voting?

23 **A Correct.**

24 **Q** Okay. Do you have a calculator in front of you? Can

25 you tell me what those numbers add up to?

1 questions, did you add up both pages there, the 2008

2 and the 2010?

3 **A Oh, I apologize.**

4 **Q** I just wanted to know.

5 **A I added the two together and apparently I just didn't**

6 **read that very well.**

7 **Q** Yeah. What I would like to know first --

8 **A Okay.**

9 **Q** -- is how much the county received in 2008 --

10 **A Okay.**

11 **Q** -- for HAVA reimbursement for absentee voting in

12 Shannon County?

13 **A My eyes are going bad. Okay. In '08, 635.98.**

14 **Q** All right. And you spent how much in 2008? Can you

15 add that up? On absentee voting in Shannon County.

16 And I'm looking at supplement answers E and F there.

17 **A 1,792.**

18 **Q** All right. So when you subtract the HAVA funding,

19 how much did Shannon County spend of its own money in

20 2008 for absentee voting?

21 **A If I've got my numbers right, 1,156.04.**

22 **Q** So as far as you know, Shannon County spent \$1,156.04

23 of its own money for absentee voting in Shannon

24 County from 2004 through the 2008, those three

25 election cycles?

- 1 **A And can you repeat that question, please?**  
 2 (Question: "So as far as you know, Shannon  
 3 County spent \$1,156.04 of its own money for absentee  
 4 voting in Shannon County from 2004 through the 2008,  
 5 those three election cycles?" read by the reporter.)  
 6 **A According to these records, yes.**  
 7 **Q** As far as you know, yes?  
 8 **A Yes.**  
 9 **Q** All right. Now, for 2010, can you tell me how much  
 10 HAVA reimbursement Shannon County received for  
 11 absentee balloting voting in Shannon County?  
 12 **A \$4,042.27.**  
 13 **Q** All right. And then I'm looking at your figure, the  
 14 total for the 2010 election cycle is how much?  
 15 **A 5,229.48.**  
 16 **Q** But that's not the total amount, right? Because if  
 17 you go to page 4 of your answer, you said the total  
 18 cost for 2010 early voting, after the amounts that  
 19 were paid by Shannon County in 2012, they came in at  
 20 \$7,784.38?  
 21 **A The 1500 of the 7,784.38 was not paid until 2012.**  
 22 **Q** All right. So we'll just take that total cost and  
 23 then subtract the amount you received from HAVA for  
 24 the 2010 election cycle.  
 25 **A You're subtracting the 15 from the 7,784?**

- 1 **Q** No, ma'am. I'm even including that. I'm including  
 2 the total amount --  
 3 **A The total?**  
 4 **Q** -- that you say that the 2010 election cost for  
 5 absentee voting --  
 6 **A Okay.**  
 7 **Q** -- in Shannon County. And then I'm asking you to  
 8 subtract the HAVA funding and tell me how much of  
 9 that was Shannon County's money?  
 10 **A The difference between the two is 3,742.11.**  
 11 **Q** All right. So that's the total amount that Shannon  
 12 County had to pay for absentee voting in Shannon  
 13 County for the entire 2010 election cycle?  
 14 **A According to these records, yes.**  
 15 **MR. WILLIAMS:** May I for a second? Isn't it true  
 16 that that 1600 will be reimbursed this year?  
 17 **A It will.**  
 18 **MR. WILLIAMS:** So if Shannon County would, in  
 19 fact, have to pay it, their amount, they would, in  
 20 fact, pay 1600 less?  
 21 **A 15, yes.**  
 22 **Q** All right. Now we've got to redo our math because --  
 23 so can you subtract 1600 from that \$3,742.11 amount?  
 24 **A Subtract the 1500.**  
 25 **Q** 1500, ma'am?

- 1 **A Yes.**  
 2 **Q** Okay.  
 3 **A Into 2,242.11.**  
 4 **Q** All right. So that's the total cost to Shannon  
 5 County for the 2010 absentee voting costs in Shannon  
 6 County?  
 7 **A According to this record, yes.**  
 8 **Q** All right. And these are from your records?  
 9 **A Correct.**  
 10 **Q** These are your records, correct?  
 11 **A Correct.**  
 12 **Q** That you submitted under oath?  
 13 **A Yes.**  
 14 **Q** All right. So now what I'm going to do is, I think,  
 15 the last calculation of this. So what is the total  
 16 amount that Shannon County went ahead and spent on  
 17 absentee voting in Shannon County total for the 2004,  
 18 '06, '08 and '10 election cycle? And I think you  
 19 just said it was \$2242.11 for 2010?  
 20 **A I'm sorry. Can you repeat that?**  
 21 **Q** Yep. I thought you gave me \$2,242.11 for 2010?  
 22 **A Okay.**  
 23 **Q** And then for 2008, you gave me \$1,156.04. So what  
 24 does that total?  
 25 **A Okay. I apologize. I added that. Can you tell me**

- 1 **again?**  
 2 **Q** Yep. For the 2008 election cycle, from your records,  
 3 you came up with \$1,156.04. So that's a total of how  
 4 much?  
 5 **A 4,022.15.**  
 6 **Q** All right. So as far as you know, absentee voting in  
 7 Shannon County for the last four election cycles,  
 8 2004, 2006, 2008, 2010, has cost a total of  
 9 \$4,022.15?  
 10 **A According to the figures we just did, yes.**  
 11 **Q** And these are your figures, correct?  
 12 **A Yes, that's correct.**  
 13 **Q** All right. So Shannon County has averaged -- the  
 14 cost for Shannon County to pay for absentee voting in  
 15 Shannon County has cost, approximately, \$1,000 of its  
 16 own money per election cycle?  
 17 **A Yes.**  
 18 **Q** And Shannon County has had to allocate -- an election  
 19 cycle is only every two years?  
 20 **A Correct.**  
 21 **Q** So Shannon County only spent, on the average, about  
 22 \$500 per year for absentee voting locations in  
 23 Shannon County for the '04, '06, '08, and '10  
 24 election cycles?  
 25 **A Would you repeat that?**

- 1 MR. SANDVEN: Can you read that back, ma'am?
- 2 (Question: "So Shannon County only spent, on the
- 3 average, about \$500 per year for absentee voting
- 4 locations in Shannon County for the '04, '06, '08,
- 5 and '10 election cycles?" read by the reporter.)
- 6 **A Well, it averages out to the 500 per year, but it**
- 7 **would still be approximately 1,000 per election**
- 8 **cycle.**
- 9 **Q** Yes, ma'am.
- 10 **A Yes.**
- 11 **Q** Did you know it was that low before today?
- 12 **A I had not reviewed these particular questions, no.**
- 13 **Q** All right. But, I mean, I'm taking these numbers
- 14 from your interrogatories?
- 15 **A Right.**
- 16 **Q** Did you ever figure out before today how much the
- 17 2004 election cycle cost Shannon County?
- 18 **A I had not gone through these, no.**
- 19 **Q** Had you ever figured out before today how much
- 20 Shannon County paid for the 2006 election cycle?
- 21 **A Again, no, I had not gone through exact costs like**
- 22 **these.**
- 23 **Q** Before the 2008 election cycle, had you ever
- 24 calculated how much absentee voting in Shannon County
- 25 actually cost Shannon County?

- 1 **A I had not reviewed that, no.**
- 2 **Q** Same question for 2010?
- 3 **A Same answer.**
- 4 **Q** No?
- 5 **A No.**
- 6 **Q** All right. You've got Exhibit 16 in your pile. I
- 7 think we're done with that one for a while. But I
- 8 think you have Exhibits 16 through 24 in front of
- 9 you?
- 10 **A Okay.**
- 11 **Q** I'm going to be asking a series of questions on those
- 12 documents. All right. If you can kind of thumb
- 13 through. I think Exhibit 16 is what?
- 14 **A The 2012 Shannon/Fall River County contract.**
- 15 **Q** And that's the first one, right? There's two of
- 16 them. There was a second contract after -- that was
- 17 entered by the county after the litigation was
- 18 commenced, correct?
- 19 **A This is the first one.**
- 20 **Q** All right. What I'm going to be doing now is
- 21 comparing the costs or preparing -- comparing the
- 22 amounts that were paid from Shannon County to Fall
- 23 River during a series of these contracts and ask some
- 24 questions there.
- 25 **A Okay.**

- 1 **Q** All right. If you go ahead and look at the auditors'
- 2 salaries total for the clerk and the auditor in 2007,
- 3 were they \$15,000?
- 4 **A You're looking at the '07 contract?**
- 5 **Q** Yes, ma'am.
- 6 **A And what was -- can you repeat the rest of that**
- 7 **question again?**
- 8 **Q** Yeah. Were the auditor and auditor clerks' salaries
- 9 for Shannon County, did that total over \$15,000 in
- 10 2007?
- 11 **A Yes.**
- 12 **Q** What was the exact amount?
- 13 **A 15 thousand and three.**
- 14 **Q** \$15,003?
- 15 **A 15,300.**
- 16 **Q** Okay. Thank you. All right. Do you know how that
- 17 figure was calculated?
- 18 **A I can't say how this was calculated, no.**
- 19 **Q** Did you have any role in determining how that figure
- 20 was calculated in this contract?
- 21 **A In this contract, I think they had given a 3 percent**
- 22 **increase from the prior year, the 2006 contract.**
- 23 **Q** Okay. At any time with any of the contracts, do you
- 24 know how it was determined how -- what amount Shannon
- 25 County would pay Fall River for auditor services?

- 1 **A No. I can't say how they were determined.**
- 2 **Q** Were you involved in going ahead and coming up with
- 3 the figures in any of the contracts that you have in
- 4 your hand for auditor services?
- 5 **A I know from '06 to '07, they had agreed to give the**
- 6 **officials, I think, a 3 percent increase. And they**
- 7 **kept the deputy -- the clerks the same.**
- 8 **Q** These contracts have been in effect since when?
- 9 **A I think these contracts have been since the early**
- 10 **'80s, I think.**
- 11 **Q** Do you know how these amounts were ever determined?
- 12 **A I don't know how they were originally determined, no.**
- 13 **Q** Is there something in the recitals, is there
- 14 something in the cover resolution on those documents
- 15 that goes ahead and describes how those amounts were
- 16 figured?
- 17 **A Not that I know of, no.**
- 18 **Q** You might want to take a look at one of them. Do you
- 19 see on the bottom of the first page of the contracts?
- 20 **A Are you looking at -- what, '07 again?**
- 21 **Q** I think some are similar, the first couple pages --
- 22 **A Yeah.**
- 23 **Q** -- or the first page?
- 24 **A Yes.**
- 25 **Q** All right. And you see that there's references to

1 the census amount or the census determined?

2 **A Yes. The minimum wages.**

3 **Q** Right. I see a reference to County Treasurer and

4 then it says Auditor and Register of Deeds?

5 **A These are the minimum salaries paid to county**

6 **officials.**

7 **Q** Right.

8 **A As per the codified law.**

9 **Q** Okay. What was the minimum amount that Shannon

10 County had to go ahead and pay to Fall River County

11 for auditor services?

12 **A These state what the minimum salaries are per county**

13 **for official determined by the population.**

14 **Q** Okay. So what was that minimum?

15 **A Well, looking at Exhibit 17 for '11, the Treasurer,**

16 **Auditor and Register of Deeds was -- with the**

17 **population is 29,891.**

18 **Q** Did you hire any new folks just to take care of

19 Shannon County?

20 **A I have one -- one employee in my office that Shannon**

21 **County pays towards their total cost.**

22 **Q** Have you ever done any kind of study or any kind of

23 research that indicates how many man hours are

24 dedicated from your office to meeting the needs of

25 Shannon County on an annual basis?

1 **Q** I don't understand why -- they weren't paying the

2 original 15,000 amount in 2007, 15,300, that didn't

3 include a clerk?

4 **A According to the breakdown, the auditor received so**

5 **much and the clerk so much. You know, '07 it was**

6 **9900 for auditor, 5400 for clerk.**

7 **Q** So how much did the auditor's pay increase and how

8 much did the clerk's pay increase?

9 **A From '07 to '08?**

10 **Q** Yes, ma'am.

11 **A Well, the 300 in the auditor, but the -- 14 -- 14,600**

12 **for the clerk.**

13 **Q** So that increased how much from the previous year?

14 **A Let me just... Right at 14,900.**

15 **Q** That was the increase to the clerk's salary?

16 **A No. The increase to the clerk was the 14,600.**

17 **Q** Okay. But a new clerk wasn't hired?

18 **A A new clerk was not hired, no.**

19 **Q** So can you explain to me --

20 **A I believe it was determined that they had been paying**

21 **5400. And I don't know if it went back a ten-year**

22 **period. And when they originally set that figure**

23 **probably ten years, back in '97, you know, obviously**

24 **our county employees' wages went up and then it came**

25 **to be where they were paying less than they should**

1 **A I'm not aware of that, no.**

2 **Q** Never done that?

3 **A Not that I've done.**

4 **Q** Why not?

5 **A I don't know. I can't say.**

6 **Q** All right. And what was the amount that Shannon

7 County paid your office or paid for your services in

8 2008?

9 **A In 2008, the auditor was \$10,200 and the clerk was**

10 **\$20,000.**

11 **Q** So that's a total of how much, ma'am?

12 **A 30,200.**

13 **Q** All right. Why did the services to you nearly -- the

14 cost for services nearly double in this contract

15 period?

16 **A The clerk wages were increased.**

17 **Q** \$15,000?

18 **A Approximately, yes.**

19 **Q** All right. I don't understand. I don't understand

20 how Shannon County paid twice as much -- it doubled

21 in one year for auditor services. You hired a new

22 clerk?

23 **A No. I think this was based on going back numerous**

24 **years where Shannon County had paid \$5400 towards the**

25 **clerk and...**

1 **have been, I would say.**

2 **Q** So it's your understanding that this was a

3 retroactive amount?

4 **A It's my understanding this was to bring it more in**

5 **line of the work that was being done by Fall River**

6 **County.**

7 **Q** Did you have any role in this calculation or this

8 increase?

9 **A I believe that I was involved in bringing the figures**

10 **to Shannon County, showing how much they've paid.**

11 **And I don't recall whether it was a ten-year period**

12 **where what they paid for the clerks had stayed the**

13 **same and it was determined to try to bring them up to**

14 **more current cost.**

15 **Q** All right. So the clerk salary increased how much

16 again?

17 **A 14.6.**

18 **Q** \$14,600 in one year?

19 **A Yes.**

20 **Q** All right. And you think that that was applied

21 retroactive to how long a period?

22 **A I think there was a ten-year lookback.**

23 **Q** You think there was a ten-year lookback?

24 **A Um-hmm.**

25 **Q** And this was your decision?

1 **A This was not my decision, but I think I helped with**  
 2 **the figures.**  
 3 **Q** Did you take this to the county commissioner and say,  
 4 We need to add on \$14,600 here?  
 5 **A I think it was brought to the commissioners to --**  
 6 **Q** By you?  
 7 **A Yes.**  
 8 **Q** All right. So when you took this amount to the  
 9 county commissioners, you said it was for a ten-year  
 10 lookback?  
 11 **A It was to bring their wages more in line, yes, based**  
 12 **on what they've been paying the last ten years.**  
 13 **Q** Okay. You wanted to increase the clerk's salary from  
 14 what to what?  
 15 **A 5400 up to 20,000.**  
 16 **Q** Right. But you didn't want to do that in one year,  
 17 right? That was --  
 18 **A It was done in a one-year period there.**  
 19 **Q** Right. But it was to go ahead and take care of how  
 20 long a period?  
 21 **A It was to just bring the wages they paid toward the**  
 22 **clerks closer to what was kind of determined of how**  
 23 **much time was being spent in Shannon County.**  
 24 **Q** But I thought earlier you said you never researched  
 25 how many time was allocated to Shannon County. So

1 **the voting was addressed in the contract.**  
 2 **Q** All right. So in that 2012 contract, that's where it  
 3 stated not a nickel from the money that Shannon  
 4 County is paying Fall River under the contract can be  
 5 used for absentee voting?  
 6 **A I didn't say that, no.**  
 7 **Q** All right. Is there a specific section on absentee  
 8 voting in the 2012 contract?  
 9 **A Yeah. Yes. Give me a second here.**  
 10 **Q** I think --  
 11 **A Section 11.**  
 12 **Q** Yep.  
 13 **A Page 4. It specifies that if we do the early voting**  
 14 **that they shall pay for the costs involved.**  
 15 **Q** What does that say?  
 16 **A It says if Shannon shall approve early voting at a**  
 17 **satellite office, Shannon County will bear all**  
 18 **expenses and costs associated with that satellite**  
 19 **office.**  
 20 **Q** All right. And Shannon County, during this period,  
 21 was paying your office \$34,200, correct?  
 22 **A That's correct.**  
 23 **Q** Okay. Why couldn't any of that money be used for  
 24 absentee voting in Shannon County?  
 25 **A You know, there's other duties that we do for the**

1 how did you determine that amount?  
 2 **A Well, it was determined that they were paying close**  
 3 **to a full-time employee in my office and in the**  
 4 **treasurer's office.**  
 5 **Q** But that was done without an assessment of how much  
 6 time was allocated to which county?  
 7 **A As far as I know, there wasn't a written down**  
 8 **assessment, no.**  
 9 **Q** So this was a guess?  
 10 **A This was.**  
 11 **Q** This was a guess?  
 12 **A Our office does a lot of time in Shannon and so does**  
 13 **our treasurer's office and it put them closer to**  
 14 **paying for one full-time employee, which it doesn't**  
 15 **still pay for one employee, but...**  
 16 **Q** And some of that money could have been used for  
 17 absentee voting in Shannon County?  
 18 **A No. This voting is included, but this includes a lot**  
 19 **of other duties that are done.**  
 20 **Q** Okay. Do you remember what year -- and you can look  
 21 at the contracts if you need -- that Shannon County  
 22 said anything to do with absentee voting is extra?  
 23 **A I believe that was put in the '12 contract.**  
 24 **Q** Okay. So that wasn't in this contract, was it?  
 25 **A Well, hang on. I think '12 was the first year that**

1 **county that have to be done, too.**  
 2 **Q** Understood. But why wasn't this in earlier  
 3 contracts?  
 4 **A Well, I think if you want my personal, it started**  
 5 **because in 2010, we did 22 days.**  
 6 **Q** Yes, ma'am.  
 7 **A Which took two people out of my office for 22 days.**  
 8 **And I didn't have abilities to help me in my office**  
 9 **because I was short while we were down there doing**  
 10 **that. And so that was put into the 2012 contract so**  
 11 **I could -- if I had to hire part-time people in**  
 12 **Hot Springs while we're sending people down there,**  
 13 **that was -- I think that was why this was added.**  
 14 **Q** Okay. So was this your idea to put this in the  
 15 contract?  
 16 **A I don't write contracts, no.**  
 17 **Q** Did anyone ever talk to you, We're putting this new  
 18 paragraph 11 in the contract?  
 19 **A Well, I think everybody reviewed the contract.**  
 20 **Q** No. My question is, did anyone talk to you?  
 21 **A I talked about it with our State's Attorney.**  
 22 **Q** And what was that conversation?  
 23 **A That we don't mind doing the early voting, but we**  
 24 **need to be able to have a way to fund if we need to**  
 25 **-- if we're pulling them out of my office to go down**

1 **to Shannon County, I need to be able to have a way**  
 2 **that if we need to hire extra people in my office in**  
 3 **Hot Springs because of that.**  
 4 Q But I thought by your own numbers it only cost \$1,000  
 5 per year?  
 6 A **No. We're talking any of those costs prior to '12,**  
 7 **they did not -- nothing was reimbursed for the eight**  
 8 **hours a day my people work.**  
 9 Q Okay.  
 10 A **It was only overtime costs and that only started in**  
 11 **'08. So from '08 to '12, and we haven't done that**  
 12 **yet. It only addressed overtime costs.**  
 13 Q Okay. So the contract jumped up to 40,500 in 2010  
 14 the amounts that were paid to your office?  
 15 A **That's correct.**  
 16 Q All right. So from 2007 to 2010, the amount that  
 17 Shannon County was paying for auditing services went  
 18 up nearly -- or went up \$25,000?  
 19 A **If that's what that difference is, yes.**  
 20 Q Why?  
 21 A **Well, obviously we are spending more time in Shannon**  
 22 **County.**  
 23 Q And what are you basing that upon, ma'am?  
 24 A **I'm basing that upon that elections, we're spending**  
 25 **more times with elections. It seems everything we're**

1 **A That was, yes.**  
 2 Q All right. So \$35,500 was paid to your office that  
 3 year?  
 4 A **That's correct.**  
 5 Q And that was double -- that was over double what it  
 6 was four years prior, in 2007, correct?  
 7 A **Yes.**  
 8 Q And then in 2012, Shannon County paid you,  
 9 approximately, 34 -- your office \$34,200?  
 10 A **That's correct.**  
 11 Q All right. And that was over double what Shannon  
 12 County paid you in 2007?  
 13 A **That's right.**  
 14 Q All right. This isn't the only money that Shannon  
 15 County paid you, correct, for auditor services?  
 16 A **I'm not sure what you mean.**  
 17 Q There were other monies that Shannon County paid you  
 18 for operating expenditures, correct?  
 19 A **Oh, Shannon County had a budget for Shannon County**  
 20 **expenses, yes.**  
 21 Q Right. So, for instance, Exhibit 16, page 3,  
 22 paragraph five. So in addition to those monies you  
 23 just described, the auditor's office would also  
 24 receive from Shannon County, approximately, \$7500  
 25 (sic) an hour for administrative expenses?

1 **doing in our office, we're spending -- we're spending**  
 2 **more time on Shannon County, too.**  
 3 Q And you work in the office every day?  
 4 A **Yes.**  
 5 Q And you know?  
 6 A **Yes.**  
 7 Q It's just you have never studied it?  
 8 A **We never had any factual written down, no.**  
 9 Q Right. And you've never -- you don't record your  
 10 timekeeping, this much time for Shannon County or  
 11 this much time for Fall River County, do you?  
 12 A **We would spend more time writing than doing and --**  
 13 **no. No.**  
 14 Q Yeah. So there's nothing -- there's no --  
 15 A **There is no --**  
 16 Q -- way you have currently of identifying the amount  
 17 of auditor resources that are going to Shannon  
 18 County?  
 19 A **No. Because everything we do in Fall River, we do**  
 20 **the same for Shannon County.**  
 21 Q Right. And you have no way of identifying any  
 22 factors justifying the increases for these salaries?  
 23 A **I have nothing in writing, no.**  
 24 Q Okay. And then in 2011, that was kind of a tight  
 25 year for Shannon County, correct, financially?

1 **A They set a budget, yes, of that amount.**  
 2 Q All right. Did you use that up, do you know?  
 3 A **I would -- I don't know without looking.**  
 4 Q Do you know if it was just a flat fee that was paid  
 5 to your office?  
 6 A **Honestly, these -- it was never paid to my office.**  
 7 **Shannon County directly paid expenses. They created**  
 8 **a budget, which was these amounts, and they paid the**  
 9 **vendors directly out of their budget.**  
 10 Q All right. So this was the budgeted amount?  
 11 A **7604.**  
 12 Q And do you have any idea what percent of the budgeted  
 13 amount was utilized during recent years?  
 14 A **I don't without looking back.**  
 15 Q I'm going to hand you what's been marked Exhibit 102.  
 16 Do you remember seeing this November 14th, 2011,  
 17 letter from your office asking for the same number of  
 18 days for absentee voting in person in Shannon County  
 19 like the rest of the state?  
 20 A **Yes.**  
 21 Q When did you first see this?  
 22 A **I can't say right offhand.**  
 23 Q Was it shortly after this November 14th, 2011, date?  
 24 A **Honestly, I can't say when I received it.**  
 25 Q Do you remember, did you take any action regarding

1 this request?

2 **A When I received this, I put it on their agenda.**

3 **Q** All right. You knew this was coming from my office

4 and the 25 Pine Ridge folks I represented?

5 **A Yes. When I received it, I put it on the agenda for**

6 **the commissioners to take action.**

7 **Q** All right. Do you remember when that first meeting

8 was with the Shannon County commission after you had

9 received this?

10 **A Well, it would have most likely been the December**

11 **meeting of '11.**

12 **Q** And it would have been that meeting where the

13 decision was made to give the registered voters 46

14 days of absentee voting in person in Shannon County?

15 **A I would assume if I received it on the 14th, I would**

16 **have put it on their December agenda. But I can't**

17 **tell without looking at my records.**

18 **Q** You knew about the request for six weeks or 46 days

19 of absentee voting in Shannon County?

20 **A Once I received this?**

21 **Q** Yes.

22 **A By reading it --**

23 **Q** Yes.

24 **A -- it appears to ask for that.**

25 **Q** Did you take any steps to go ahead and accommodate

1 their absentee ballot after mailing the absentee

2 application to Hot Springs, South Dakota, and then

3 have to perform a second mailing to cast their vote

4 unless the voter drove to Hot Springs, South Dakota.

5 Do you agree with everything in that paragraph?

6 **A Yes. It's the same as any voter in the state would**

7 **have to do if they wanted to vote, if they wanted to**

8 **vote by mail.**

9 **Q** Okay. I'm going to ask you the same question about

10 paragraph two, if you want to read that?

11 (A brief pause.)

12 **A I agree with that.**

13 **Q** Okay. You agree with this statement, A resident of

14 Sioux Falls, South Dakota, or Rapid City, South

15 Dakota, can go to the courthouse in their respective

16 county and in a single trip receive an absentee

17 ballot and cast their absentee ballot. Additionally,

18 if said resident can, if not registered to vote,

19 register to vote, request an absentee ballot, receive

20 the absentee ballot, and cast their absentee ballot

21 for the first four weeks of the absentee ballot

22 voting period from six weeks prior to the election up

23 until two weeks prior to the election?

24 **A Just like any other voters, so yes.**

25 **Q** Agree with everything in that statement?

1 this request besides moving it forward to the Shannon

2 County commission?

3 **A That's my role is to get it out there for the**

4 **commissioners to make a determination.**

5 **Q** All right. Did you begin doing anything to arrange

6 for trained staff?

7 **A When I received this, I took no action until I found**

8 **out what the commissioners were going to request.**

9 **Q** I'm going to hand you what's been marked Exhibit 103.

10 Do you remember reading this memorandum from my

11 office dated November 26, 2011?

12 **A Hang on a second. I remember reading it, yes.**

13 **Q** Do you agree with my reasons starting with reason

14 number one, paragraph one? Do you agree with

15 everything in paragraph one?

16 **A Hang on a second.**

17 (A pause.)

18 **A Yes.**

19 **Q** You're in total agreement with the statement, In

20 2002, Shannon County voters were required to request

21 an absentee ballot from the Shannon County auditor if

22 they wanted to vote prior to election day, however,

23 the Shannon County auditor services were contracted

24 out to the Fall River auditor located in Hot Springs,

25 South Dakota. A Shannon County voter would receive

1 **A Yep.**

2 **Q** All right. I'm going to go ahead and ask the same

3 question for paragraph three, if you can read that.

4 **A Yep.**

5 **Q** Is that except for Shannon and Todd Counties, all

6 eligible voters in the state of South Dakota can go

7 to the courthouse geographically located within their

8 respective county, register to vote, request and

9 complete an absentee ballot in a single trip until

10 two weeks before the election when registration

11 closes, thereafter, except for registered voters in

12 Shannon and Todd Counties, registered voters are able

13 to go to the courthouse geographically located within

14 their respective county and request and complete an

15 absentee ballot for the final two weeks of the

16 absentee ballot period including up until 3 o'clock

17 p.m. of election day?

18 **A Yep.**

19 **Q** All right. These first three paragraphs, before we

20 move to the second page, have you known or agreed

21 with what's stated in these paragraphs since you

22 became auditor in 2005? Were you aware of these

23 things?

24 **A These things that are mentioned are normal**

25 **procedures.**



1 Q So you're aware of all these normal procedures since  
2 you became auditor?  
3 A **Yes.**  
4 Q All right. Let's go to paragraph four. Were you  
5 aware that Pennington County had an alternative  
6 location where absentee ballots can be requested and  
7 cast in a single trip in Wall, South Dakota?  
8 A **I'm not sure when I learned that.**  
9 Q Do you know if it was after you became auditor or  
10 before you became auditor?  
11 A **It was probably after I became auditor.**  
12 Q Did you know it before the 2010 election cycle?  
13 A **I don't recall if I -- if it was in '10 or if I**  
14 **learned that after.**  
15 Q And then you knew that voter registration could also  
16 occur at that Wall, South Dakota, location?  
17 A **I assumed it could be if they had the satellite**  
18 **office there, yes.**  
19 Q All right. If you go to paragraph six, it talks  
20 about private parties paying funding to Shannon  
21 County who in turn contracted with Fall River County  
22 for absentee voting in Shannon County. Do you know  
23 how much total private sources Shannon County has  
24 received? I'm not talking about HAVA. I'm not  
25 talking about the \$4,000 you spent as a county from

1 Q All right. So does it appear from these -- from, at  
2 least from your records, that Shannon County actually  
3 received \$16,000 more for absentee voting locations  
4 in Shannon County than what they paid?  
5 MS. FRANKENSTEIN: Steve, you had her subtract  
6 the 15,000 from those figures when you went through  
7 it.  
8 Q Okay. If you go to your answer in interrogatory  
9 number 4B.  
10 A **Hang on a sec.**  
11 Q All right. Remember what we did before in the  
12 calculations is we went ahead and took -- added up  
13 your actual expenditures, your identifiable  
14 expenditures for early voting and then we subtracted  
15 the HAVA amounts, correct?  
16 (A brief pause.)  
17 Q Yes, ma'am? If you don't remember, we can say it  
18 again.  
19 A **I don't remember.**  
20 MS. FRANKENSTEIN: Steve, I'm not going to --  
21 your question is with regard to 2004. There were no  
22 HAVA reimbursements in 2004.  
23 MR. SANDVEN: No, I know what my question is. I  
24 don't need any help here. If you have an objection,  
25 make it.

1 2002 through 2010. I'm asking about do you know how  
2 much private money has come in through Four  
3 Directions from 2004 through 2010?  
4 A **Well, according to records, we received the 15,000 in**  
5 **2004, and we received 5,000 in 2010.**  
6 Q All right. So for election cycles 2004 through 2010,  
7 you've received \$20,000 from private sources or Four  
8 Directions?  
9 A **Yes.**  
10 Q So you had a surplus of, approximately, \$15,000 of  
11 money that you had spent on absentee voting in  
12 Shannon County?  
13 A **I think my 2004 figures, I couldn't be certain**  
14 **exactly what the expenses were. And I think my 2010**  
15 **expenditures --**  
16 Q Right. I thought we just went through all of this  
17 when we went through interrogatory number 4, Sue?  
18 A **Yeah.**  
19 Q And we went through all of the math for 2004 through  
20 2010. And I thought you said that the total after  
21 HAVA reimbursements was \$4,022.15. Was that right?  
22 A **Yeah. Yes.**  
23 Q All right. So now that figure doesn't include the  
24 \$20,000 that came in from Four Directions, does it?  
25 A **That did not, no.**

1 MS. FRANKENSTEIN: I do have an objection. This  
2 has all been asked and answered. You're confusing  
3 the record. It's already clearly put in there. If  
4 we need to go through the math, we certainly can do  
5 it after this deposition.  
6 MR. SANDVEN: Or we can do it now.  
7 MS. FRANKENSTEIN: Well, then I would ask that  
8 you do it correctly. And not ask her to subtract  
9 amounts and then ask her to subtract again later as  
10 if it wasn't done at your request initially.  
11 Q All right. We'll make it easier. All right? Do you  
12 have your interrogatory number 4 answers in front of  
13 you, Sue?  
14 A **I do.**  
15 Q All right. And you've got a calculator. Can you go  
16 ahead and add up the identifiable cost, the cost that  
17 you identified in your records from 2004 election,  
18 '06, '08 and '10?  
19 A **Question on number 10 --**  
20 Q Yes, ma'am. Total costs?  
21 A **So we're using the \$7700 figure?**  
22 Q Yeah, we'll use the high number.  
23 A **Total is 21,576.38.**  
24 Q And what does that number represent, ma'am?  
25 A **That's expenses for '04 through '10 elections.**

1 Q All right. And then do you have the HAVA  
2 expenditure? Here, Exhibit 32, how much money you  
3 got back from HAVA of that?  
4 A **You want all HAVA reimbursements since '04?**  
5 Q Yeah. For those four election cycles, '04, '06, '08  
6 and '10.  
7 A **Did you give just me the -- I have '08 and '10.**  
8 MS. FRANKENSTEIN: I don't believe you've given  
9 her reimbursement forms for 2009.  
10 MR. SANDVEN: Did you provide those?  
11 MS. FRANKENSTEIN: And those are -- figures  
12 include the HAVA reimbursement that she received for  
13 2009 because you haven't had her put it into the  
14 calculation.  
15 MR. SANDVEN: All right. Can we get that in  
16 front of her?  
17 MS. FRANKENSTEIN: Sue, I'm handing you what's  
18 been marked as D000463.  
19 THE WITNESS: Do I have HAVA reimbursements for  
20 '06 and '04, also?  
21 MS. FRANKENSTEIN: Well, there weren't any in  
22 those years, so no.  
23 A **Okay. And so I'm not showing my expenses for '09,**  
24 **but you want that added back in? Because I didn't**  
25 **report expenses for '09. And I'm sorry. Did you**

1 A **Yes.**  
2 Q And then we haven't included the \$20,000 from Four  
3 Directions yet, correct?  
4 A **That's correct.**  
5 Q All right. So now what was the cost to the county  
6 less the Four Directions submissions?  
7 A **Difference of 3,101.87.**  
8 Q And just so I'm clear, from your records or your  
9 responses to the interrogatories and the HAVA  
10 expenses and the Four Directions, the county received  
11 \$3,101.87 more than what they paid for absentee  
12 voting locations in Shannon County for the four  
13 election cycles, 2004 through 2010?  
14 A **Agreed upon that they are -- that is the figure upon**  
15 **my identifiable costs.**  
16 Q Okay. Does that surprise you? Once we go through  
17 all of the math, that the county has received more  
18 money than they spent on absentee voting locations in  
19 Shannon County?  
20 A **Maybe surprise, but...**  
21 Q Just never figured it out before today?  
22 A **Always happy for the county to get money, so...**  
23 MR. SANDVEN: Well, good. Do you want to take a  
24 short break now, ma'am.  
25 THE WITNESS: I would, please.

1 **want total HAVA reimbursements for early voting**  
2 **members?**  
3 Q Yeah. Absentee voting -- for costs for absentee  
4 voting in Shannon County.  
5 A **I didn't have early voting costs in '09. We're**  
6 **looking at early voting costs and then**  
7 **reimbursements. So I have a total of 16,898.13.**  
8 Q All right. And that number represents what, ma'am?  
9 A **That represents my costs off of my Exhibit 161, '04**  
10 **through '10, less my HAVA reimbursements for '08 and**  
11 **'10.**  
12 Q Okay. So that leaves a balance of how much actual  
13 voting costs, actual costs for absentee voting in  
14 Shannon County for 2004, 2006, 2008, 2010 election  
15 cycles less HAVA reimbursements?  
16 A **I took my 12, my 52, my 842, the 950 -- or not the**  
17 **52, but the 70.**  
18 Q Yeah. And ma'am, I think you've done it right. I'm  
19 just asking for the difference between what the  
20 county paid and what HAVA reimbursed?  
21 A **Okay. 16,898 -- oop. Hang on a second. Sorry. Let**  
22 **me redo my calculations here. Expenses, 21, minus my**  
23 **HAVA reimbursements, balance is 16,898.13.**  
24 Q That's the total? The total cost to the county so  
25 far?

1 MR. SANDVEN: Yes, ma'am.  
2 THE WITNESS: Okay.  
3 (A brief recess was taken from 2:01 p.m. to 2:10  
4 p.m.)  
5 Q Do you know anyone -- any other county in South  
6 Dakota other than Todd or Shannon where private funds  
7 were utilized for funding an absentee voting  
8 location?  
9 A **I don't know of any other, no.**  
10 Q No?  
11 A **No.**  
12 Q Did you agree that the early voting locations  
13 contributed to voter turnout more than doubling in  
14 Shannon County in 2004 from the turnout in 2000?  
15 A **I don't know what the turnout was in 2000.**  
16 Q Okay. Do you have your answers? I think you signed  
17 some admissions.  
18 MS. FRANKENSTEIN: I signed the admissions.  
19 Q Okay. Do you think absentee voting locations in 2004  
20 contributed to increased voter turnout in Shannon  
21 County to more than doubling from the 2004 election  
22 to 2000?  
23 MS. FRANKENSTEIN: Objection, asked and answered.  
24 MR. SANDVEN: No, it wasn't answered.  
25 MS. FRANKENSTEIN: She did answer it.

1 Q Go ahead and answer it.

2 A **I didn't answer it, because I don't see what the 2000**

3 **results were.**

4 Q You don't know if it doubled or not?

5 A **I don't know, no.**

6 Q Do you have an opinion on whether or not absentee

7 voting in Shannon County contributed to increased

8 voter turnout in any election?

9 A **Well, we just sat down there for 32 days and we had**

10 **46 voters and -- I don't know.**

11 Q No opinion?

12 A **I can't say it's the early voting that increases the**

13 **turnout or not or the satellite offices.**

14 Q Okay. I'm going to hand you what's been marked

15 Exhibit 54. This is a December 31st, 2009, letter to

16 Brendan Johnson from Jim Sword. Have you seen this

17 letter before?

18 A **I can't guarantee. I...**

19 (A brief pause.)

20 A **I knew he had written one, but I can't guarantee I**

21 **read that.**

22 Q Okay. On the first page of this letter, it says that

23 in 2008, Patrick Duffy went to Sue and asked if she

24 could get early voting in Shannon County. Did you

25 assist in going ahead and getting the preclearance

1 Q Never had one denied?

2 A **No.**

3 Q And the letters look pretty much the same through the

4 different election cycles?

5 A **Yes.**

6 Q Basically, just have to change the date and send it

7 in once it's written, correct?

8 A **I mean, we do preclearance not only for the early**

9 **voting, but for any changes in polling places or any**

10 **other thing that affects the voting.**

11 Q Right. I'm asking specific about absentee voting in

12 Shannon County?

13 A **Okay.**

14 Q How long did it usually take once you sent the letter

15 out to get the initial response from the U.S.

16 Department of Justice?

17 A **I'd have to look at my file.**

18 Q No idea?

19 A **I can't say.**

20 Q Do you know, approximately, how long the entire 2008

21 preclearance or the approval process took from

22 beginning to end?

23 A **I can't say.**

24 Q No idea?

25 A **I can't without looking, no.**

1 approvals?

2 A **Yes.**

3 Q What was your role?

4 A **I wrote a letter to the Department of Justice asking**

5 **for preclearance.**

6 Q And you did that for the 2008 election cycle?

7 A **Well, we did early voting in '08, and with any early**

8 **voting, I have to get approval and so I had to have**

9 **written a letter.**

10 Q Do you recall if you got preclearance on any other

11 election cycles? If you had a role?

12 A **I probably participate -- I probably did letters in**

13 **'06. And I can't guarantee. I think Jim wrote**

14 **letters for the '10 and '12 to the Department of**

15 **Justice.**

16 Q Okay. Here it says that you got pre-approval. Do

17 you remember that?

18 A **Well, I remember writing -- I remember submitting**

19 **letters to the Department of Justice.**

20 Q Is it pretty easy getting pre-approval from the U.S.

21 Department of Justice? You just had to send a

22 letter, a request?

23 A **We have to send a letter and then they will contact**

24 **us and ask questions about where we're at and whatnot**

25 **and I haven't had a denial.**

1 Q Right. And all the county had to do was to go ahead

2 and provide a description of what the absentee voting

3 location, where it would be?

4 A **(The witness indicated.)**

5 Q Yes?

6 A **Yes.**

7 Q What other information did the county have to

8 provide?

9 A **I think we provided the dates and the location and**

10 **the hours if we had them.**

11 Q And then were you ever contacted by the United States

12 Department of Justice regarding your application or

13 your request?

14 A **I can't say for sure. Like I said, I've been**

15 **contacted on all sorts of preclearance, which**

16 **included the other things including the -- other than**

17 **the early voting too, so...**

18 Q Would you classify it or do you see it as a

19 relatively easy process to go ahead and get

20 preclearance for absentee voting locations in Shannon

21 County?

22 A **I don't recall having problems getting the**

23 **preclearance.**

24 Q Write the letter and then they call you back?

25 A **(The witness indicated.)**

1 Q Yes?

2 A **Pretty much.**

3 Q And then you get a letter from them saying, Yeah,

4 it's approved?

5 A **We do -- I recall getting letters after the election,**

6 **so sometimes it's...**

7 Q Any idea how many manhours it is for your office to

8 go ahead and request preclearance for absentee voting

9 locations in Shannon County?

10 A **I don't think I've done it personally since probably**

11 **'08, so I can't think of how many hours.**

12 Q Yes, ma'am. Do you know how many hours you had into

13 it in 2008? Can you estimate?

14 A **I can't say.**

15 Q Was it less than five?

16 A **Probably.**

17 Q Probably less than five hours of Shannon County

18 auditor resources to go ahead and obtain preclearance

19 for absentee voting locations in Shannon County?

20 A **(The witness indicated.)**

21 Q Yes?

22 A **I can't say without looking, but I would tentatively**

23 **agree.**

24 Q All right. In the next sentence, it says, Under Sue

25 Ganje's leadership voter turnout has been increasing?

1 A **Whether they're legal questions, I can't say I**

2 **answered the legal questions, but...**

3 Q All right. And the last -- second to the last

4 paragraph on the second page of Mr. Sword's letter,

5 he states in the second sentence, However, if a

6 voting rights complaint is filed, I will resign, Sue

7 will resign. Did you ever threaten to resign your

8 post as Shannon County auditor?

9 A **We gave a 30-day notice back in 2010.**

10 Q All right. What month was that, ma'am?

11 A **I'm not sure. September of 2010. I could be wrong,**

12 **but...**

13 Q All right. Do you recall if it was early September

14 or mid September?

15 A **You know, we had a lot of meetings in 2010. And I --**

16 **without looking at the minutes, I'm not going to**

17 **guess.**

18 Q Was it your idea to go ahead and quit your post in

19 2010 or did someone suggest it to you?

20 A **Well, first, we didn't quit. We just gave a notice**

21 **of intent.**

22 Q Okay.

23 A **And it did not go through, so nobody resigned.**

24 Q Understood.

25 A **Okay.**

1 A **That's what it says, yeah.**

2 Q And you didn't write this letter?

3 A **I didn't write this, no.**

4 Q Would you agree with that statement?

5 A **I can't say. I would always hope our voter turnout**

6 **increases, so...**

7 Q Right. Would you agree that Mr. Sword is suggesting

8 in his letter that --

9 A **What I would agree with is I think I was a more**

10 **active auditor than my predecessor.**

11 Q Right. And we'll get into that. But would you agree

12 with his inference that early voting increased voter

13 turnout?

14 A **I can't say you can link those two sentences.**

15 Q Okay. All right. If you look at the last full

16 sentence on this page, in my office you had a State's

17 Attorney whose legal advice on voting matters

18 consisted of talked to Sue. So people relied on you

19 for election issues?

20 A **I had experience, yeah.**

21 Q Did you consider yourself the primary authority on

22 election issues in Shannon County?

23 A **I've had a lot of experience working with Shannon**

24 **County.**

25 Q Yes, ma'am.

1 Q Did you write the notice of intent to quit?

2 A **I did not, no.**

3 Q Who did?

4 A **I believe our State's Attorney wrote it.**

5 Q Mr. Sword did?

6 A **And it was signed by all of our officials.**

7 Q Okay. Why did you agree to sign the notice to quit

8 or of intent to terminate?

9 A **Well, I think that's because on our agenda the**

10 **commissioners were -- had a motion to replace Jim and**

11 **remove him as a State's Attorney, possibly install**

12 **you as State's Attorney, and I didn't feel that I**

13 **would get what I needed.**

14 Q You didn't think we could work together?

15 A **I understood you were in Sioux Falls and I just felt**

16 **I needed somebody that I could go to immediately at**

17 **any time.**

18 Q So you made a decision to resign your county auditor

19 services because you thought you might be working

20 with a Sioux Falls attorney?

21 A **I wasn't comfortable in changing it.**

22 Q Why?

23 A **I'm sorry. But I felt that we all worked together.**

24 Q No. I understand. A lot of people --

25 A **That's what I needed to do.**

- 1 **Q** A lot of people don't like change. But was that your  
2 primary reason then, you didn't want change?
- 3 **A** **And I will tell you that we had a lot of issues**  
4 **happening in 2010 and the majority of them had**  
5 **nothing to do with voting.**
- 6 **Q** All right. That affected auditor services?
- 7 **A** **It was affecting everything that was going on in our**  
8 **county.**
- 9 **Q** All right.
- 10 **A** **And all of our offices.**
- 11 **Q** So the reasons that you executed, you signed that  
12 intention of a notice to terminate the contract was  
13 one -- or one of the reasons was a Sioux Falls  
14 attorney; number two, and not in any order of  
15 significance, was the Sheriff issue, ma'am?
- 16 **A** **That was an issue. That was kind of the overlying**  
17 **and underlying issue.**
- 18 **Q** All right. What else made you want to quit or sign  
19 the notice to quit besides those two issues?
- 20 **A** **You know, I had this that when I'm told by somebody**  
21 **sitting at our table, I hate you white people, it**  
22 **just became an issue that I just was not comfortable**  
23 **working with.**
- 24 **Q** Were there any other reasons?
- 25 **A** **It was a culmination of everything that was**

- 1 **happening.**
- 2 **Q** All right. But on the everything that was happening,  
3 was there -- so far, it's the Sioux Falls attorney,  
4 the Sheriff issue, a racist remark?
- 5 **A** **Racist remark.**
- 6 **Q** Anything else?
- 7 **A** **And you weren't the biggest issue. You just came in**  
8 **on that day. Sorry. But there was just -- I just --**  
9 **I can't even pinpoint. There was just -- everything**  
10 **was happening.**
- 11 **Q** But what comprised everything? This is a big deal  
12 for -- to do a notice to terminate, isn't it?
- 13 **A** **I understand that. But I have to feel in a workplace**  
14 **where I didn't -- I just -- I had to -- if things**  
15 **didn't change or something, I just wasn't -- I just**  
16 **couldn't continue on. I'm not going to have a job**  
17 **where I go home every night and worry and hash over**  
18 **everything and stress. It was very stressful.**
- 19 **Q** So these three factors contributed to your stress.  
20 Were there any other factors that influenced your  
21 decision to sign the notice to terminate your  
22 agreement for auditor services to Shannon County?
- 23 **A** **Nope. It was just a combination of everything that**  
24 **was going on.**
- 25 **Q** Right. The last time I'll ask. This was everything,

- 1 these three reasons?
- 2 **A** **They're the main reasons. You weren't even really in**  
3 **the running. But mostly it was -- mostly, it was the**  
4 **Sheriff issue and everything that happened within**  
5 **that issue.**
- 6 **Q** All right. And to you, what did the Sheriff issue  
7 have to do with auditor services?
- 8 **A** **Somehow our Sheriff -- all of the services performed**  
9 **by Fall River County came under scrutiny by Shannon**  
10 **County and I didn't feel that Shannon County wanted**  
11 **us as their providers.**
- 12 **Q** Understood. When was the statement made, you know, I  
13 hate -- what was the statement? I hate white people?
- 14 **A** **Um-hmm.**
- 15 **Q** That was made at a commission meeting?
- 16 **A** **That was.**
- 17 **Q** And that was directed to who?
- 18 **A** **The individual was at our table and there was -- as**  
19 **you know, there was a white -- there was another**  
20 **white person on the commission. So I don't know if**  
21 **it was directed at that person, me, all of the people**  
22 **that were in the room. I don't know.**
- 23 **Q** But you're stating that one commissioner said this to  
24 someone else in the room?
- 25 **A** **It was not a commissioner that said it.**

- 1 **Q** Who said it?
- 2 **A** **It was a commissioner's wife.**
- 3 **Q** All right. Whose was it?
- 4 **A** **It was Wendell's wife.**
- 5 **Q** Wendell Yellow Bull's wife made this statement?
- 6 **A** **Yes.**
- 7 **Q** All right. Is that the only racist statement that  
8 you've ever experienced over there?
- 9 **A** **Oh, I don't know. We went to Pine Ridge, had a**  
10 **meeting, and there was quite a few people indicating**  
11 **their preference, which I don't deny them that. But**  
12 **for them to have their courthouse there and their**  
13 **people running their courthouse and...**
- 14 **Q** So in your tenure as auditor for Shannon County, how  
15 many meetings have been held in Shannon County with  
16 the Shannon County commission?
- 17 **A** **Oh, we were having meetings years ago.**
- 18 **Q** Yes, ma'am.
- 19 **A** **I can't say what year. And we quit because we**  
20 **continued to have lack of quorums to hold the**  
21 **meetings.**
- 22 **Q** All right. So you experienced some racism at that  
23 Shannon County commission meeting in Hot Springs?
- 24 **A** **One or two of them, yeah.**
- 25 **Q** All right. Would you agree that there's often

1 tension between Indians and non-Indians?  
 2 **A I have worked with Shannon County people for 30 years**  
 3 **and I've never experienced what I did in '10. So I'm**  
 4 **not going to admit there is tensions between**  
 5 **everybody, because I've never seen it before.**  
 6 **Q** But you observed racial tensions during 2010, in  
 7 addition to what you just described?  
 8 **A That whole issue.**  
 9 **Q** Right. Was this -- was this an exclusive issue? Was  
 10 this the only issue of racism that you observed or  
 11 experienced during the 2010 election cycle?  
 12 **A You know, it was everywhere. It was in comments in**  
 13 **the newspaper. It was -- I don't -- I can't say -- I**  
 14 **can't even say specifics.**  
 15 **Q** Right.  
 16 **A But I was not comfortable. And whatever the reasons**  
 17 **were, if things didn't change, then things were never**  
 18 **going to change.**  
 19 **Q** When you say it was everywhere, and you talked about  
 20 the press, anything else that you thought that there  
 21 was some racial tensions?  
 22 **A No. I mean, we had people attend meetings and half**  
 23 **of them were on one side and half of them were on the**  
 24 **other. And everybody was -- it was just a heated**  
 25 **issue for a lot of people.**

1 **A I think us officials met and whether it was at one of**  
 2 **those September meetings -- it wasn't discussed a**  
 3 **lot, but it was discussed.**  
 4 **Q** Was it drafted during a meeting that you attended?  
 5 **A I don't know.**  
 6 **Q** Don't remember?  
 7 **A I don't know. It was drafted when I saw it, so I**  
 8 **don't know when it was drafted.**  
 9 **Q** Okay. Correct. Understood. Did you sign it during  
 10 a meeting?  
 11 **A I did.**  
 12 **Q** Had you had to have a chance to review it before you  
 13 signed it at that meeting?  
 14 **A I think it was a pretty simple statement.**  
 15 **Q** So no, you didn't need time to review it before the  
 16 meeting? You saw it at the meeting and signed it?  
 17 **A It wasn't at the meeting. I think we were on a**  
 18 **break.**  
 19 **Q** Right.  
 20 **A It wasn't during a meeting.**  
 21 **Q** Okay.  
 22 **A I mean, there was a break taken during the meeting.**  
 23 **Q** And during that break, some of the county officials  
 24 that were contracting with Shannon County huddled up?  
 25 **A (The witness indicated.)**

1 **Q** And what was a heated issue? The Sheriff issue?  
 2 **A That's pretty much was what started it all.**  
 3 **Q** And it was pretty much some of the Natives, some of  
 4 the Indians on one side --  
 5 **A Yeah.**  
 6 **Q** -- and some of the non-Indians on the other side?  
 7 **A Yes.**  
 8 **Q** Was it 100 percent Indian on one side and 100 percent  
 9 non-Indians on the other?  
 10 **A I can't even tell you that. It was just...**  
 11 **Q** But your observations were, on these issues at this  
 12 meeting, that most of the Indians were supporting one  
 13 candidate and most of the non-Indians were supporting  
 14 another?  
 15 **A No. There was -- there were Native Americans**  
 16 **supporting the white Sheriff and there was --**  
 17 **Q** Okay.  
 18 **A I can't say.**  
 19 **Q** When was that notice of intent first presented to  
 20 you, the intent to terminate now?  
 21 **A How do you mean when it was presented to me?**  
 22 **Q** You didn't write it, you said?  
 23 **A No.**  
 24 **Q** So someone walked it over to you. When did that  
 25 happen?

1 **Q** And talked about, Let's terminate this agreement?  
 2 **A Let's give them -- it was not terminate. It was just**  
 3 **-- it was just a -- it was a notice of intent, but it**  
 4 **was maybe something that would just level things out.**  
 5 **I don't know.**  
 6 **Q** Are you saying --  
 7 **A It was just a wild and crazy situation.**  
 8 **Q** Okay. And this is how long before absentee voting is  
 9 supposed to go ahead and start?  
 10 **A I would have to review minutes to even see on the**  
 11 **exact dates on that.**  
 12 **Q** But this is getting pretty close, correct, to going  
 13 ahead and getting into that absentee voting period,  
 14 because this was in September this occurred?  
 15 **A If this was September, then yes.**  
 16 **Q** Didn't you have some concerns, If I quit as auditor  
 17 right now, how is absentee voting going to occur in  
 18 Shannon County?  
 19 **A Well, of course I had concerns.**  
 20 **Q** All right. What were they?  
 21 **A It's not a -- it wasn't an easy decision, you know,**  
 22 **when you work with people for 30 years, you don't**  
 23 **just, oop, let's just do that. You just...**  
 24 **Q** How long did you contemplate this decision? It  
 25 wasn't an easy decision?

1 **A It wasn't an easy decision. And I can't say how long**  
 2 **I thought about that decision.**  
 3 **Q** Do you remember if you received the draft or the  
 4 written notice of intent at the same meeting that you  
 5 signed it? That was the first time you saw it?  
 6 **A I think so.**  
 7 **Q** So you didn't take a lot of time or sleep on it to go  
 8 ahead and make this decision, did you?  
 9 **A I will just tell you that there was -- it was --**  
 10 **there was just a lot of emotions for it appeared a**  
 11 **lot of time in 2010.**  
 12 **Q** Did you express any of your concerns to anybody that,  
 13 If I pull out as auditor right now this close to  
 14 absentee balloting in the 2010 general election  
 15 cycle, this could cause a lot of problems for  
 16 elections in Shannon County?  
 17 **A Did I talk to anybody else about that?**  
 18 **Q** Yes, ma'am. This is a big decision, correct?  
 19 **A This is a decision, yes.**  
 20 **Q** All right. So you said, I'm going to -- a notice to  
 21 quit being auditor. Before you signed that, did you  
 22 go ahead and visit with anyone about the  
 23 implications?  
 24 **A I don't recall having that conversation with anybody.**  
 25 **Q** Do you --

1 **Q** All right. So it's your testimony that when the  
 2 budget increased, approximately, \$15,000 in 2008,  
 3 that was because of a budget that you had submitted?  
 4 **A It had been -- it had been brought to the commission**  
 5 **and they made -- they agreed to do that.**  
 6 **Q** All right. And when you created your budget for  
 7 these increased costs, you really didn't do any  
 8 research. You just wrote in that number, I want this  
 9 increase?  
 10 **A It -- you know, I don't have pencil minute-by-minute**  
 11 **of what we do, but we -- in essence, we know how much**  
 12 **time we spend in each county.**  
 13 **Q** Just because of your experience, you had a gut  
 14 feeling kind of on how much time was allocated?  
 15 **A Yes.**  
 16 **Q** And not anything really else but that gut feeling?  
 17 **A Just my knowledge of how much time we spent.**  
 18 **Q** Just from supervising the office and making general  
 19 observations?  
 20 **A And doing the work, yes.**  
 21 **Q** I'm going to hand you what's been marked Exhibit 53.  
 22 Have you ever seen this letter from Shannon County  
 23 State's Attorney Jim Sword to Senator Tim Johnson and  
 24 Ellie Wicks?  
 25 **A I think I saw this. I don't think I saw this when it**

1 **A I mean, obviously we knew if we did, then -- I wasn't**  
 2 **sure what was going to happen.**  
 3 **Q** So why -- before you put that notice to quit, why  
 4 didn't you try to work out some kind of transition  
 5 plan then?  
 6 **A It appeared there was not issues -- workable issues.**  
 7 **Q** With those contracts that are in front of you, I  
 8 think it's Exhibit 16 through 26, were you involved  
 9 in the negotiation of any of those agreements?  
 10 **A I created budgets for my office.**  
 11 **Q** No. I understand. I understand you were heavily  
 12 involved in the budgeting process. But --  
 13 **A I mean, every department created a budget.**  
 14 **Q** And then submitted it?  
 15 **A And that's the budget and that was -- the budget was**  
 16 **approved and that budgeted amount is what went into**  
 17 **here.**  
 18 **Q** So when you talked earlier about some of the amounts  
 19 doubling that went into the agreement over -- you  
 20 know, from one year to the next, some of the amounts  
 21 paid to the auditor doubled, nearly tripled  
 22 eventually, did you submit budgets for each one of  
 23 those increases?  
 24 **A I believe so. I mean, everything in my budget was**  
 25 **submitted in there.**

1 **was sent or anything, but sometime after it was sent.**  
 2 **Q** If you go to the second page, the first full  
 3 paragraph, the first paragraph, it said that Shannon  
 4 County and Sue are willing to work with DOJ to  
 5 approve the voting process, but we won't be  
 6 threatened or intimidated into signing any settlement  
 7 agreement. Were you threatened by somebody?  
 8 **A Not that I recall.**  
 9 **Q** Were you intimidated by someone?  
 10 **A Not that -- not that I -- I think he's referring to**  
 11 **-- in what he -- what he thought is the way the DOJ**  
 12 **was trying to get us to enter into this agreement.**  
 13 **Q** All right. With those -- all those agreements that  
 14 are sitting in front of you between Shannon County  
 15 and Fall River for services --  
 16 **A Um-hmm.**  
 17 **Q** -- were you ever part of the negotiation process  
 18 besides submitting a budget? Did you ever attend a  
 19 meeting where Fall River and Shannon County sat down?  
 20 **A Fall River and Shannon have not sat down together.**  
 21 **Q** Okay. You keep the minutes as auditor for the  
 22 Shannon County commission meetings, correct?  
 23 **A Correct.**  
 24 **Q** And you attend almost all of the meetings, correct?  
 25 **A Correct.**

- 1 Q And then you wear those same hat -- that same hat for  
2 Fall River also, correct?
- 3 A **Correct.**
- 4 Q You take the minutes for them, also?
- 5 A **Yes.**
- 6 Q All right. So in your 30 years, have you ever seen a  
7 joint Shannon County/Fall River County meeting?
- 8 A **Years ago, I think Connie, who is a chairman way in  
9 the past --**
- 10 Q Connie Whirlwind Horse?
- 11 A **-- would come up there herself and just sign the  
12 agreement with them and leave. But that hasn't been  
13 done for a long time.**
- 14 Q Do you know if there was some back and forth between  
15 the commissions?
- 16 A **I don't know.**
- 17 Q Lyla Hutchison testified in her deposition that it  
18 was a take it or leave it and Jim Sword would run it  
19 back and forth in recent years between commissions,  
20 is that accurate?
- 21 A **I think the State's Attorney, whoever has been the  
22 State's Attorney, has always been the ones that have  
23 drafted them. And, like I say, other than years ago,  
24 in my time period, I've never seen negotiations  
25 between the two.**

- 1 Q Since 2005?
- 2 A **Right.**
- 3 Q Okay. Have you ever seen a back and forth or any  
4 term changed from what was initially proposed to  
5 Shannon County?
- 6 A **Not that I can think of.**
- 7 Q Do you think it was kind of a take it or leave it  
8 type environment for this agreement like Lyla  
9 Hutchison described?
- 10 A **Well, I don't know how you describe that. I mean --**
- 11 Q Okay.
- 12 A **-- it was put out of what we thought was a workable  
13 contract and both counties agreed, so...**
- 14 Q Okay. Were there ever any questions of you why the  
15 auditor services went up so much in the contract  
16 since you've been county auditor in 2005?
- 17 A **I don't -- I don't -- I haven't been asked those  
18 questions.**
- 19 Q Was there ever any communication with either county  
20 commission regarding the cost of auditor services  
21 under these agreements?
- 22 A **No.**
- 23 Q One of the things we talked about a little bit  
24 earlier was this was the first election cycle, 2012,  
25 where on election day from 8 to 3 --

- 1 A **Yes.**
- 2 Q -- there was voting at the absentee voting location?
- 3 A **Yeah.**
- 4 Q Can you tell me why that is? Why it wasn't done  
5 before in the previous elections that you were  
6 involved with?
- 7 A **I think there's just always been the fear that we  
8 weren't able to monitor that if somebody came into  
9 our early voting in the satellite office and because  
10 we're not on our e-books and could automatically go  
11 next door to their polling place and vote.**
- 12 Q Why do you think you need an e-book? Is that  
13 required by South Dakota law?
- 14 A **It's not required by South Dakota law, but it would  
15 allow -- it would allow the tracking of -- you know,  
16 to make sure somebody doesn't attempt to vote twice.**
- 17 Q Do you think there's a greater risk of someone voting  
18 twice in Shannon County than anybody else? When I  
19 asked Secretary of State Gant, he said no. When I  
20 asked former Secretary of State Chris Nelson on  
21 Monday, he said no.
- 22 A **Yeah.**
- 23 Q So is there a greater risk?
- 24 A **I don't know if there's a greater risk than anywhere  
25 else, but I know it's happened.**

- 1 Q That someone has voted twice?
- 2 A **Yes.**
- 3 Q How many instances are you aware of where you know  
4 that that's happened?
- 5 A **I'm just aware of some instances that happened in  
6 2004.**
- 7 Q Were those prosecuted?
- 8 A **I believe the FBI -- the FBI investigated and I think  
9 there was one prosecution.**
- 10 Q All right. So as far as you know, there's only been  
11 one instance in about the last four election cycles  
12 where someone has tried to vote twice?
- 13 A **As far as I know, yeah.**
- 14 Q Do you know if that's happened in any of the other  
15 counties where someone has tried to do that?
- 16 A **I don't know. I haven't heard of anything or anybody  
17 else, but it's just a logistical thing in the e-books  
18 no matter were -- no matter what county, it would  
19 just help prevent anything like that. Or that if  
20 they already early voted and, you know, came back and  
21 tried to vote again.**
- 22 Q And your basis for wanting the e-book is that one  
23 incident in 2004 that was prosecuted?
- 24 A **Well, I would think the e-books and the vote centers  
25 and I think that would be beneficial to our voters.**



1 Q Okay. Do you require e-books for any of the Fall  
2 River locations?  
3 A **I don't have them now. But I intend to work towards  
4 that.**  
5 Q Okay. Why do you want it for Shannon County but not  
6 for Fall River?  
7 A **Oh, I do want it for Fall River, too.**  
8 Q But you haven't implemented it for Fall River,  
9 correct?  
10 A **This was the first year -- this was the first year  
11 that they've been allowed, I believe. Or I guess  
12 they've been selling them for the vote centers this  
13 year.**  
14 Q All right. To me, it just seems from listening is  
15 that Shannon County is making a bigger deal, that we  
16 need these e-poll books in Shannon County. We need  
17 them there for absentee voting. But I don't hear  
18 them making a big deal about it anywhere else. Why  
19 does it seem -- or is there a greater need at Shannon  
20 County for these e-books than anyplace else?  
21 A **I don't think there's a bigger -- I don't think  
22 there's any more in Shannon than anywhere else.**  
23 Q Okay. Didn't someone ask you for weekend voting  
24 recently?  
25 A **They did.**

1 Q If you work 8 to 5 or during the normal location  
2 hours?  
3 A **Yeah.**  
4 Q So why not make it a little bit easier for folks who  
5 work down there in Shannon County to go ahead and  
6 vote on the weekends?  
7 A **With us running it, we were running 12-hour days and  
8 my concern is for my people. And I felt that if  
9 somebody wanted to vote, we were there 8 to 5, Monday  
10 through Friday, or there was the mail-in option or  
11 voting on election day.**  
12 Q And that was your communication to the county  
13 commission, you recommended they deny the request,  
14 correct?  
15 A **Actually, the commissioners -- I really didn't give  
16 input on that. I mean, when it was presented, I  
17 think it was Wendell that said, Weekends are for  
18 families. And that's kind of where they leaned to  
19 and then they made the motion to deny it.**  
20 Q Do you know if someone offered some money to go ahead  
21 and pay for that weekend voting?  
22 A **Oh, I -- OJ Semans was at the meeting and he had  
23 talked about, you know, trying to come up with some  
24 additional -- with some funds to do that, but the  
25 commissioners just didn't -- they denied it.**

1 Q And that was Four Directions?  
2 A **Well, the letter was signed from --**  
3 Q From the tribe?  
4 A **From the tribe, yes. The letter was signed.**  
5 Q And it referenced Four Directions?  
6 A **Well, Four Directions is the one that delivered it.**  
7 Q Okay. What were your thoughts on that?  
8 A **My personal thoughts were -- is I didn't want to do  
9 it.**  
10 Q Why not, ma'am?  
11 A **Because we run like crazy during election season.  
12 And I think everybody and all employees need their  
13 weekends to get a rest.**  
14 Q Were you aware that some of the counties or a county  
15 in Shannon County (sic), Minnehaha, I think, went  
16 ahead and provided for weekend voting?  
17 A **I think so. I think there's been a few that do that.  
18 And I don't have an official poll, but I -- you know,  
19 there's a few counties that have done that. But it's  
20 -- I have never offered it in Fall River County and I  
21 don't -- I don't know -- I haven't talked to any of  
22 our area counties that offer that.**  
23 Q All right. It makes it easier for folks that work,  
24 right, if they can go vote on the weekend?  
25 A **I would think it may, but I don't know.**

1 Q Understood. So when -- could the commission have  
2 went ahead or you or your office went ahead and taken  
3 some of that private money to go ahead and hire new  
4 folks to go ahead and conduct the voting in Shannon  
5 County?  
6 A **Well, then you're getting back to the Sue Ganje rules  
7 and I would have still been the one to take the  
8 ballots down, me or my staff.**  
9 Q Right. But why didn't you have a little flex in your  
10 rule for the weekend?  
11 A **Because my people were running 12-hour days and they  
12 were tired.**  
13 Q No. I understand that. But to go ahead -- you had  
14 the money to go ahead and hire new people that just  
15 did some of the weekend shifts?  
16 A **But I would have still -- me or my staff would have  
17 still been taking them down and bringing them back.  
18 I don't care what county it is. I'm in charge of the  
19 ballots and I'm going to keep in possession of those.  
20 So it still involved us working on the weekend.**  
21 Q But even if you trained somebody in your office to go  
22 ahead? I mean --  
23 A **Well, that's why I say, me or someone in my office  
24 would have still been taking ballots down there and  
25 bringing them back.**

1 Q Okay. Couldn't you have went ahead and kind of  
2 staggered some of the workdays or worked, you know,  
3 during some of the weekends in the election cycle?  
4 A **You know, the commissioners did not give any  
5 indication of wanting to offer that.**  
6 Q When did you first learn that there were millions of  
7 dollars available of HAVA monies that could have been  
8 used for absentee voting in Shannon County?  
9 A **Actually, I think when I heard Secretary Gant testify  
10 was the first I heard of how much money was in the  
11 HAVA funds, in the March hearing.**  
12 Q Okay. How come you never asked anyone about it  
13 before then?  
14 A **You know, we got our allotments and I just didn't  
15 question. Everybody in the state was given the same  
16 allotments and...**  
17 Q Have you ever asked anyone how the allotment was  
18 determined?  
19 A **I have not, no.**  
20 Q Why?  
21 A **I just have always had faith in Chris Nelson and when  
22 he told us what our allotments were, I didn't have  
23 reason to question it.**  
24 MR. SANDVEN: Why don't we take five minutes? I  
25 think I'm close to wrapping up.

1 discussion on this matter by the county commission?  
2 And when I say this matter, I mean any talk of giving  
3 46 days, not six?  
4 A **Well, obviously I think your previous letter  
5 discussed the 46 days. And then after your letter,  
6 they made their motions on their six days, so...**  
7 Q Is this the first time you learned or that you knew  
8 there was going to be 46 days of early voting before  
9 the primary and the general?  
10 A **I know it was agreed upon when we had the court  
11 hearing in March and I can't recall what the date was  
12 in March.**  
13 Q Okay. This meeting was a week before that court  
14 hearing. I think we can look at your transcript.  
15 A **Okay.**  
16 Q Or a little less than a week. The hearing was on  
17 what day? March 8th, 2012, it said.  
18 A **Okay.**  
19 Q And then this meeting was March 2nd, 2012?  
20 A **(The witness indicated.)**  
21 Q Yes?  
22 A **Yes.**  
23 Q So this was the first time the county commission took  
24 any action?  
25 A **I think this is the first time the county commission**

1 (A brief recess was taken from 2:53 p.m. to 3:00  
2 p.m.)  
3 Q I'm going to hand you what's been marked Exhibit 106.  
4 And if you would go to what's been Bates stamped, in  
5 the lower right-hand corner, 00229.  
6 A **Okay.**  
7 Q And you go to the fourth paragraph, Bob Palmier,  
8 Director of the Tribe's Department of the Revenue,  
9 came and met with the commission regarding renting a  
10 space?  
11 A **Yes.**  
12 Q When did you begin soliciting an early voting  
13 location in Shannon County? When did you start  
14 searching for it?  
15 A **I can't say exactly when; I know Jean Belt, the  
16 coordinator, had been looking for spots. I just  
17 don't know the date that she started, but she  
18 anticipated starting her contract in January. I know  
19 she was trying to look for something.**  
20 Q Okay. You go down to the third from the last  
21 paragraph, there was a motion by Hutchison, second by  
22 White Hawk, to provide 46 days of early voting for  
23 each 2012 election?  
24 A **Um-hmm.**  
25 Q Is this the first time that there had been any

1 **took action on the 46 days.**  
2 Q Okay. I thought I heard you testify earlier that the  
3 county commission took this action because of the  
4 litigation? I though I heard you say that.  
5 A **The litigation and, I believe, more importantly, that  
6 intent in the commitment to do the additional  
7 \$12,000.**  
8 Q Okay. And let's -- so the litigation, that was one  
9 of the reasons, correct?  
10 A **Um-hmm.**  
11 Q Yes?  
12 A **Yes.**  
13 Q All right. And then it talks about due to the  
14 Secretary of State's commitment to provide an  
15 additional approximate \$12,000?  
16 A **Yes.**  
17 Q Okay. Do you know when the request for \$12,000 was  
18 made?  
19 A **I think that was -- I think that was dealt with with  
20 our attorney.**  
21 Q Because you don't know?  
22 A **Between the attorney and the Secretary of State. I  
23 don't know.**  
24 Q When is the first time you requested money from the  
25 South Dakota Secretary of State for the 2012 election

1 cycle?

2 **A We have our paperwork ready to go. And it will get**

3 **sent in this week. We had to wait until Shannon**

4 **County paid Fall River County for their expenses.**

5 **Q** Right. So you went ahead and got the reimbursement

6 form after the expenses had been paid by the county,

7 correct?

8 **A Right.**

9 **Q** But for the 2012 election cycle, you never contacted

10 the South Dakota Secretary of State before your

11 attorney did on March 1st and said, We need more

12 money?

13 **A I did not, no.**

14 **Q** Why not?

15 **A I think I answered that earlier, that I was -- I**

16 **requested what I was aware that he authorized and**

17 **that prior to this \$12,000, he had not authorized the**

18 **day-to-day eight-hour day amounts.**

19 **Q** Right. And we're not going to redo all of the math.

20 **A Right.**

21 **Q** But we went through the math earlier?

22 **A Yes.**

23 **Q** You testified under oath, right, that the county had

24 actually received more money for absentee voting?

25 **A Well, I admitted that from what I could identify, it**

1 **appeared that way, but --**

2 **Q** From the records --

3 **A -- there were records that I couldn't identify, so I**

4 **can't say for positive. I'm not going to say for**

5 **positive we gained money on that.**

6 **Q** Right.

7 **A But I can't go back and look and see.**

8 **Q** But as far as you know from the records that you were

9 able to find, Shannon County did receive more money

10 than they spent for absentee voting in Shannon

11 County?

12 MS. FRANKENSTEIN: Objection, asked and answered.

13 **A In my identifiable 2004 expenses, it appeared that**

14 **way.**

15 **Q** Okay.

16 **A And that was only what I could identify.**

17 **Q** All right. So my question is, why did the \$12,000 of

18 HAVA funds have anything to do with the decision for

19 46 days of early voting if you folks were getting

20 more money than you were spending on early voting?

21 **A If we got more than we spent, that happened in 2004,**

22 **which is nothing to do with where we did -- I don't**

23 **know -- I don't recall how many days. But when we're**

24 **talking six weeks, we're talking two people out of my**

25 **office for six weeks. This money allows me, as I**

1 **said before, to -- if I need to hire in my office**

2 **while I'm sending people down there, that's what the**

3 **importance of this \$12,000 is.**

4 **Q** All right.

5 **A Because Shannon County does not pay Fall River enough**

6 **to take two people out of my office for 12 weeks and**

7 **also do the other normal responsibilities that we**

8 **have.**

9 **Q** Okay. Did you do a budget for the 2012 absentee

10 voting locations in Shannon County?

11 **A I prepared a proposed expenses.**

12 **Q** How much is absentee voting going to cost?

13 **A Do you have a copy of what I presented or --**

14 **Q** Your attorney was going to provide it and didn't.

15 MS. FRANKENSTEIN: Steve, I've got copies of it.

16 I can go through these with her. I do plan on doing

17 that when my time for questioning comes. I would ask

18 that you let me do that with Sue. I think it will

19 speed things up tremendously.

20 MR. SANDVEN: All right. You're going to go

21 through and talk about how much early voting costs in

22 2012.

23 MS. FRANKENSTEIN: I am. And of course you can

24 ask all the questions after that.

25 MR. SANDVEN: Right. And then you'll go ahead

1 and ask how much of it is -- you figured out how much

2 of it is HAVA money?

3 MS. FRANKENSTEIN: As best she can tell us.

4 **Q** All right. Do you have any idea after the HAVA

5 funding how much this 2012 absentee voting in Shannon

6 County is going to cost?

7 **A For early voting or for all voting?**

8 **Q** No. For absentee voting or early voting?

9 **A Well, I anticipate we got the majority of the**

10 **expenses will be reimbursed now.**

11 **Q** Are you aware of any expense for the 2012 election

12 cycle for absentee voting in Shannon County that will

13 not be paid by HAVA funds?

14 **A Not that I could think of.**

15 **Q** You don't know of a single nickel that won't be paid

16 for by the state of the South Dakota via the HAVA

17 fund distribution?

18 **A Not that I can think of right at the moment, no.**

19 MR. SANDVEN: All right. No further questions.

20 MS. FRANKENSTEIN: Rich, do you mind if I go

21 first?

22 MR. WILLIAMS: Absolutely.

23 EXAMINATION BY MS. FRANKENSTEIN:

24 **A Sue, I'm handing you what's been Bates stamped D**

25 **000222.**

196

1 (Exhibit Number 166 marked for identification.)

2 **Q** And now it's been marked Exhibit 166. Is this a

3 document that you prepared, Sue?

4 **A It is.**

5 **Q** And did you do this at the beginning of the 2012

6 year?

7 **A Yes.**

8 **Q** Was it in anticipation of in preparation for

9 budgeting for the 2012 election year?

10 **A It was.**

11 **Q** Is this something that you shared with the Shannon

12 County commission?

13 **A I did.**

14 **Q** At the bottom there is an asterisk and it states HAVA

15 reimb -- it is short for reimbursement, based on 2010

16 allowable reimbursement. Does that mean that your

17 numbers here are anticipating whether or not expenses

18 will be reimbursed through HAVA based upon your

19 experience with reimbursement in 2010?

20 **A You're correct.**

21 **Q** Okay. Let's go through these and I'll have some

22 questions for you line by line. So starting with the

23 first one. Election board. You've got the expense

24 of \$16,000 listed under the general fund?

25 **A Yes.**

197

1 **Q** And you indicate at the far right that you do not

2 anticipate it to be reimbursable through HAVA. Can

3 you explain that?

4 **A This is our normal -- this is what we pay poll**

5 **workers on the election boards on the election day**

6 **and that's -- that is a process never been reimbursed**

7 **from HAVA.**

8 **Q** And that's pursuant to all of your previous

9 communications with Chris Nelson regarding what he

10 will allow HAVA to reimburse to Shannon County?

11 **A Yes.**

12 **Q** And that's election day costs?

13 **A That's -- yes, that's election day and the schooling**

14 **costs.**

15 **Q** Okay. Training?

16 **A Yeah.**

17 **Q** The second listed item is HAVA salaries. Is this the

18 amount that you anticipate in 2012 to pay to Jean

19 Belt, your Lakota coordinator?

20 **A Yes.**

21 **Q** So we see \$9,680 listed under the Lakota coordinator

22 column, the first one?

23 **A Right. Go ahead.**

24 **Q** I'm, also, going to show you another exhibit here. I

25 don't recall if it's already been entered. But I'm

198

1 handing you the Memorandum of Agreement that Shannon

2 County signed with the Department of Justice. And

3 I'll ask you to turn to the page that discusses the

4 absentee, which is Page 17.

5 **MR. SANDVEN:** Say again?

6 **MS. FRANKENSTEIN:** 17.

7 **Q** So here we see three paragraphs numbered 35, 36 and

8 37, and it spills a little bit into page 18, but this

9 discusses absentee and early voting within this MOA,

10 is that correct?

11 **A That's correct.**

12 **Q** You're familiar with these three paragraphs?

13 **A Yes.**

14 **Q** Read through them right now for you to be familiar,

15 right?

16 **A Right.**

17 **Q** Your understanding is that this portion of the DOJ

18 agreement requires a Lakota coordinator, such as Jean

19 Belt, to be at the satellite office at all times

20 should you provide a satellite absentee office in

21 Shannon County, am I correct?

22 **A Correct.**

23 **Q** So for whatever hours and whatever days the Shannon

24 County commission determines it's going to have for

25 satellite absentee balloting in Shannon County, Jean

199

1 Belt has to be there for that time period, is that

2 true?

3 **A Jean or an assistant.**

4 **Q** So the more early voting within Shannon County, the

5 higher the costs are because of the salary increase

6 for Jean Belt, her time commitment increases?

7 **A It is going to be a higher cost. It will be**

8 **reimbursed, all Lakota's -- all of the MOA**

9 **expenditures have a reimbursable.**

10 **Q** For Jean Belt anyway?

11 **A Correct. Yeah.**

12 **Q** Okay. So you've got Jean Belt's salary listed as a

13 projected \$9,680. And you've got it all listed as

14 HAVA reimbursable, which you just stated. How about

15 the next line, which says HAVA assistant wage. Do

16 you mean by this to be Jean Belt's assistant?

17 **A Yes.**

18 **Q** And you list it as not HAVA reimbursable. Why is

19 that?

20 **A Well, I had thought that when we initiated this**

21 **program in 2010 I -- when we initiated the contract**

22 **in '10, I don't believe that any of -- I think it was**

23 **only the coordinator's wages that were reimbursable.**

24 **So I didn't list it as anticipated.**

25 **Q** Okay. I'm going to hand you an e-mail here.

200

1 (Exhibit Number 167 marked for identification.)

2 **Q** It's been Bates stamped N0358 and marked as Exhibit

3 167. Are you familiar with this e-mail?

4 **A Well, it must be why I thought that then.**

5 **Q** And you say that because this is an e-mail from Chris

6 Nelson where he indicates he will not allow HAVA

7 reimbursement for an assistant for the Lakota

8 coordinator, is that correct?

9 **A Yes, that's correct.**

10 **Q** So based upon that experience, you've got the HAVA --

11 assistant wage of \$1,305 listed as not HAVA

12 reimbursable?

13 **A Correct.**

14 **Q** For these two figures, Jean Belt's and her assistant,

15 you've got them listed one lump sum under Lakota

16 coordinator at not under early vote. But as we've

17 just discussed, if you -- if Shannon County

18 commission decided to have zero early voting days at

19 a satellite office in Shannon County, would these

20 figures be lower?

21 **A Well, when we were approached by the Department of**

22 **Justice, they had said they wanted the program and it**

23 **really wasn't up to them. They could do it out of a**

24 **car. So I took that to be that we wouldn't**

25 **necessarily need to have an established office for**

201

1 **the Lakota coordinator.**

2 **Q** And she wouldn't have to be there from 8 to 5 for 46

3 days prior to election day?

4 **A Correct.**

5 **Q** So part of this anticipated expense here for both

6 Jean Belt and her assistant could be placed in the

7 early vote expense column?

8 **A Since our DOJ, basically, requires if we do the early**

9 **voting that we have a Lakota coordinator there, too,**

10 **then it could be a split cost. I don't know.**

11 **Q** So in the end, to have 46 days prior to the election

12 with early voting starting at a satellite office,

13 you've got early voting expense also tied up in

14 salaries you pay Jean Belt and her assistant?

15 **A If we do the early voting and -- yes, if we do early**

16 **voting, we need her there.**

17 **Q** So some of those costs we also need to consider as

18 early voting expenses, is what you're saying?

19 **A I am.**

20 **Q** Now, FICA, is that basically a similar situation

21 because wages paid to Jean Belt and her assistant can

22 be classified both under the Lakota coordinator as

23 well as an early vote expense?

24 **A Well, yeah.**

25 **Q** Okay. The next line we've got insurance listed as

202

1 \$200 under the general fund election expense. Can

2 you just explain that briefly?

3 **A This is just insurance that we pay on our voting**

4 **machines.**

5 **Q** On the AutoMARKs?

6 **A On the AutoMARKs, yeah.**

7 **Q** Publishing you've got listed as 3,000 under the

8 general fund election expense. Can you explain that?

9 **A Those are just all of the required notices, the**

10 **election calendar and the notices that are required**

11 **we published in the paper.**

12 **Q** How about the additional notices that you had

13 published both in newspapers as well as over the

14 airwaves with KILI Radio with regard to advertising

15 early voting, is that lumped in this \$3,000 amount?

16 **A No. I put the HAVA supplies/publishing, the 1200,**

17 **under the Lakota coordinator. But any and all of the**

18 **ads that we did this year we, basically, let them**

19 **know we would be having both, the early voting and**

20 **the Lakota coordinator to assist in what they needed.**

21 **So some of that -- it's kind of tough. The Lakota**

22 **and the early voting, they're both kind of meshed**

23 **together.**

24 **Q** So really it's an expense to accomplish both what the

25 Lakota coordinator needs to accomplish and in order

203

1 to educate people about the early voting?

2 **A Yes.**

3 **Q** The HAVA equipment maintenance is the next line

4 listed as 3,500 under the general election expense?

5 **A And that, again, we pay yearly maintenance on our**

6 **AutoMARKs. But those are by the required -- by the**

7 **things set out by the Secretary of State, it's a**

8 **reimbursable cost.**

9 **Q** There's a couple lines for rent. The first one says

10 rent. The second one says HAVA rent. Can you

11 explain the difference?

12 **A Well, we pay the rent under the general fund and we**

13 **pay rent for the polling places for our general day**

14 **elections and that was the 500. But the HAVA rent**

15 **for Lakota coordinator and early voting, I put it at**

16 **the 4500.**

17 **Q** So this \$4500 expense is the anticipated six months'

18 rental fee in order to house both Jean Belt in her

19 Lakota coordinator position as well as to provide

20 early voting as you've done it in 2012?

21 **A Yes. Part of that really could be in the early vote**

22 **expenses, too. Should be.**

23 **Q** Yeah. You just happened to have all of the rent for

24 that under Lakota coordinator?

25 **A Right.**

1 Q And you've indicated that the Department of Justice  
 2 said your coordinator could work out of a car if she  
 3 wanted to?  
 4 A **You know, they said they would. It would be nice to  
 5 have an office to file, to have the forms. But when  
 6 we did discuss, you know, funding with her in Shannon  
 7 County, then she, you know -- she didn't really care  
 8 how it got done, just so that Jean or whoever was  
 9 there and available to help people, so...**  
 10 Q So in the end this 4,500 could at least be split, if  
 11 not entirely placed, under the early voting expenses  
 12 column?  
 13 A **Yes.**  
 14 Q The HAVA phone, \$910, is that to supply that office  
 15 with a phone line?  
 16 A **Yes.**  
 17 Q So really that's kind of the same as the rent?  
 18 A **Yeah. I should have maybe just split half on a lot  
 19 of those expenditures, but...**  
 20 Q Supplies is listed as 15,000. Can you tell us what  
 21 kind of supplies that is?  
 22 A **Oh, that's -- those are our supplies under our  
 23 regular expenses, which includes the ballots --  
 24 ballots, all of our stamps, ink pads, everything else  
 25 that we need to send to the polls on election day.**

1 Q So at any of these meetings or any reason that Jean  
 2 Belt would go out into the community that could also  
 3 include early voting efforts on her part?  
 4 A **Yeah. I mean, she's out there to try to explain the  
 5 voting to them and help them with anything they need  
 6 help with to be able to vote.**  
 7 Q I'm going to refer you back to the MOA, to paragraph  
 8 -- or excuse me, page 17. And I'm looking at  
 9 paragraph 35, starting on the second sentence. Let's  
 10 start with the first one. The county is committed to  
 11 maximizing absentee voting opportunities for elderly  
 12 Lakota voters who are limited English deficient. The  
 13 coordinator shall have an adequate supply of absentee  
 14 ballot applications and be authorized to deliver  
 15 those applications to elderly American Indian voters  
 16 and provide language assistance for their completion.  
 17 The coordinator shall be authorized to provide  
 18 language assistance to elderly American Indian voters  
 19 in completing their absentee ballots and assist in  
 20 the delivery of those ballots to the U.S. mail.  
 21 To the best of your knowledge, is that what Jean  
 22 Belt does and your previous Lakota coordinators have  
 23 been doing?  
 24 A **Well, yeah. I know they've been going out. I don't  
 25 know if they personally delivered any ballots, if**

1 Q How about election travel listed as \$350 under the  
 2 general fund?  
 3 A **Well, we do pay our superintendents but not -- we pay  
 4 superintendents. We pick up the ballots and transmit  
 5 the ballots. They get paid mileage. So that's for  
 6 both elections.**  
 7 Q On election day?  
 8 A **On election day.**  
 9 Q Coordinator travel is listed as 370 under the Lakota  
 10 coordinator column. Can you explain that?  
 11 A **Well, according to MOA, she attends or attempts to  
 12 attend meetings that they have with the elderly so  
 13 she can go and explain voting procedures, help with  
 14 forms, or do anything she needs to do to help the  
 15 people. But she does travel throughout county.**  
 16 Q We're going to talk a little bit more about this in a  
 17 minute, but under coordinator travel, what you've  
 18 just described as far as Jean Belt going out into the  
 19 county visiting with people, does Jean Belt also take  
 20 absentee ballots to voters in their homes or in their  
 21 groups and help them fill out absentee ballot  
 22 applications and return them?  
 23 A **I didn't have any request for them this year, but  
 24 certainly she's there to help them and that would be  
 25 a very helpful thing for her to do.**

1 **they have any requests for that. But she has all of  
 2 the forms available. And if she's able to pick them  
 3 up, she can just bring them back to our office, even  
 4 our office in Pine Ridge instead of having them go  
 5 through the mail.**  
 6 Q So if a Shannon County voter wanted to vote absentee  
 7 on this -- not on election day and not at a time or  
 8 at a place where the satellite office happens to be  
 9 open, could they simply call Jean Belt and ask her to  
 10 come out to their very own home and fill out an  
 11 absentee ballot and have her take it back to your  
 12 office?  
 13 A **That would be perfectly fine.**  
 14 Q Is there any other county in South Dakota that, first  
 15 of all, has a coordinator that does these types of  
 16 duties in addition to the county auditor?  
 17 A **Not that I know of.**  
 18 Q Is there any other county in South Dakota whose  
 19 county auditor or anybody within the county auditor's  
 20 office makes house calls?  
 21 A **Not that I know of.**  
 22 Q Any county auditors other than Shannon with the  
 23 Lakota coordinator who can facilitate any kind of  
 24 traveling at a voter's request to have an in-person  
 25 delivery of an absentee ballot and in-person

1 instruction as to how to cast their ballot absentee?  
 2 **A Not that I know of, no.**  
 3 **Q** Paragraph 36 says, The contracting election official  
 4 shall immediately notify the coordinator when  
 5 absentee ballot applications have been rejected and  
 6 the coordinator shall assist those persons in  
 7 correctly completing the application. Did I read  
 8 that correctly?  
 9 **A Yes.**  
 10 **Q** Is there any other county that has someone like a  
 11 coordinator who assists people in correctly  
 12 completing a new application should the absentee  
 13 ballot application be rejected?  
 14 **A Not that I know of.**  
 15 **Q** Paragraph 37, If the county conducts early voting,  
 16 the county shall hire at least one trained bilingual  
 17 poll official to be present on site and provide an  
 18 operational voting machine on site during early  
 19 voting. I'm not going to read the rest. But is that  
 20 the basis for your understanding that if you have an  
 21 early voting site, your coordinator needs to be  
 22 there, too?  
 23 **A The coordinator or her assistant, they're there to**  
 24 **assist the voters.**  
 25 **Q** I'm going to have you flip to the attachments to the

1 **voter deadline.**  
 2 **Q** So as far as registering to vote is concerned, would  
 3 there be any reason that a Shannon County resident  
 4 would have to wait for you or somebody in the county  
 5 auditor's office to be at an early voting satellite  
 6 office before they were able to register to vote?  
 7 **A No.**  
 8 **Q** In addition to using the Lakota coordinator to  
 9 register to vote, are there other locations and  
 10 opportunity within Shannon County to register?  
 11 **A We send all of our forms to the Cap Offices to see if**  
 12 **they can help us have forms available for people.**  
 13 **They send them to Social Services. We send them --**  
 14 **we get their driver's license. I think we've sent**  
 15 **them to some of the tribal offices. We send voter**  
 16 **cards out everywhere we think we can. For early**  
 17 **voting, they can mail them to us instead of having to**  
 18 **get them up to Hot Springs.**  
 19 **Q** Under the second paragraph there on page 2, and it's  
 20 entitled, Second Week in May, it indicates that your  
 21 Lakota coordinator should conduct elderly focus  
 22 meetings with tribal districts. Under this  
 23 particular category, it totals six meetings. It  
 24 states the purpose is to present election information  
 25 in Lakota, including absentee ballot procedures,

1 MOA. Towards the back, there's Attachment A. And it  
 2 stands to be quite a few pages, but is it your  
 3 understanding that Attachment A plays out exactly  
 4 what the Lakota coordinator must do and when in order  
 5 to be in compliance with this MOA?  
 6 **A That's their timeline, yes.**  
 7 **Q** I'm going to go ask you to turn to page 2 of  
 8 Attachment A. And at the top of the third line down,  
 9 there's a reference to the coordinator assisting with  
 10 absentee voting. Do you see that?  
 11 **A Um-hmm.**  
 12 **Q** And then down in the bullet point, second bullet  
 13 point, it says, Assist elderly Lakota-speaking voters  
 14 in filling out registration application, absentee  
 15 ballot application, and absentee ballots, true?  
 16 **A True.**  
 17 **Q** So Jean Belt can assist voters in filling out  
 18 registration applications?  
 19 **A Yes.**  
 20 **Q** In a year in which there wasn't a satellite office,  
 21 in-person absentee voting starting 46 days prior to  
 22 the election, but you did have a Lakota coordinator,  
 23 could someone come in at any time at her office and  
 24 register to vote?  
 25 **A If it was within that 15 -- prior to 15 days of the**

1 assistance in completing absentee ballot  
 2 applications, assistance in filling out absentee  
 3 ballots, and some other things. Do you see that?  
 4 **A Yes.**  
 5 **Q** So is this an example of where the DOJ requires your  
 6 Lakota coordinator to actually go into the community  
 7 outside of her office and go to the voters in order  
 8 to help them with absentee ballots?  
 9 **A Yes.**  
 10 **Q** There are other similar requirements. I'll direct  
 11 you to the next one, as an example. I'm not going to  
 12 go through the whole attachment here. But under,  
 13 Third Week of May, there's a similar requirement  
 14 where Jean Belt goes into the community to teach  
 15 people about absentee ballot procedures. It says, In  
 16 completing absentee ballot applications, assistance  
 17 in filling out absentee ballots, et cetera. Is that  
 18 true?  
 19 **A Yes.**  
 20 **Q** And there's other examples of Jean Belt's assistance  
 21 with Shannon County residents outside of her office  
 22 in the community with regard to absentee voting, is  
 23 that true?  
 24 **A Yes.**  
 25 **Q** If there was a Shannon County voter who for some

1 reason didn't want to vote on election day, didn't  
 2 want to travel to Hot Springs, and didn't want to  
 3 complete an absentee ballot by requesting and  
 4 returning it through the mail, and this was prior to  
 5 2012 when we didn't have the full amount of early  
 6 voting in a satellite office in Shannon County, do we  
 7 yet have an additional option only in Shannon County  
 8 for voters in Jean Belt?  
 9 **A We do. She can take ballots and we authorize her to**  
 10 **take ballots to voters in the system as needed.**  
 11 **Q** I'm going to bring you back to the chart, which is D  
 12 000222, Exhibit 166. And I think we ended with the  
 13 coordinator travel. So the next line indicates  
 14 workshop travel and there is nothing in there. Can  
 15 you just explain that?  
 16 **A I don't know. Usually I do put the expense in there,**  
 17 **so I don't know why I didn't put anything in there.**  
 18 **Q** If there was an expense to travel to a workshop,  
 19 where would --  
 20 **A It would come under my general fund. It wouldn't be**  
 21 **HAVA reimbursed.**  
 22 **Q** So the next category we see is Fall River salary  
 23 reimbursement. It lists \$18,656 under the early vote  
 24 expense. Can you explain what that signifies?  
 25 **A That was just my estimate of what it would cost of**

1 **Q** Now, since then we got a commitment from the  
 2 Secretary of State Jason Gant that he will  
 3 potentially approve --  
 4 **A Yes. The additional 11,330.**  
 5 **Q** The next line says Hot Springs to Oelrichs travel.  
 6 You've got 1,221 estimated as early vote expense.  
 7 Can you explain what this is?  
 8 **A That was our travel from Hot Springs to Oelrichs**  
 9 **daily and back at 37 cents a mile in a Fall River**  
 10 **vehicle.**  
 11 **Q** And you anticipate that to be reimbursable through  
 12 HAVA?  
 13 **A Yes.**  
 14 **Q** The next line is Oelrichs to --  
 15 **A Shannon.**  
 16 **Q** -- Shannon County, \$1,904.76. Can you explain that?  
 17 **A That was when we got in our deputy vehicle and drove**  
 18 **to Pine Ridge and back every day.**  
 19 **Q** And you expect that to be reimbursed through HAVA?  
 20 **A Yes.**  
 21 **Q** Meals are listed at 363 under early vote expense.  
 22 Can you explain that?  
 23 **A Meals are authorized and we're there from 8 to 5,**  
 24 **so...**  
 25 **Q** Your total costs listed under the Lakota coordinator

1 **doing the 8 to 5 plus the travel time, including**  
 2 **overtime to perform the six weeks.**  
 3 **Q** So this is based on what you did, in fact, incur for  
 4 early voting expenses in 2010, but anticipating it to  
 5 be -- or beginning 46 days prior to the election day?  
 6 **A Right.**  
 7 **Q** Okay. So we see the 18,656 listed under early voting  
 8 and then we see under anticipated HAVA reimbursement  
 9 7,326 is listed. Can you explain what that number  
 10 signifies?  
 11 **A That has been based on our 2010 and prior**  
 12 **reimbursement for wages where we were only authorized**  
 13 **to receive HAVA reimbursement for overtime hours.**  
 14 **Q** So your anticipated overtime costs for Fall River  
 15 salaries in year 2012 was projected at 7,326?  
 16 **A No. It would be that. That 7326 would be what I**  
 17 **anticipate the daily 8 to 5 hours.**  
 18 **Q** Well, it's listed in your anticipated HAVA?  
 19 **A I'm sorry, yes. It would be the overtime.**  
 20 **Q** So the --  
 21 **A So the 11 would be the daily, 8 to 5.**  
 22 **Q** Okay. The \$11,330 listed that you don't anticipate  
 23 it to be HAVA reimbursement would be the normal 8 to  
 24 5?  
 25 **A Correct.**

1 in the MOA expense is 18,565, correct?  
 2 **A Correct.**  
 3 **Q** Under early vote expenses, you've got a total of  
 4 \$22,144.76, correct?  
 5 **A Correct.**  
 6 **Q** Now, if we broke things out, as you explained  
 7 earlier, to a little more fairly allocate some of  
 8 those expenses to early vote expense column, we'd see  
 9 a higher figure than the \$22,144.76, is that true?  
 10 **A Yes. We would reduce the Lakota column and add more**  
 11 **into the early vote.**  
 12 **Q** And would you anticipate that that cost shifting from  
 13 one column over to the other would at least continue  
 14 throughout the time period you're required to have a  
 15 Lakota coordinator in the manner prescribed in the  
 16 MOA?  
 17 **A Correct.**  
 18 **Q** When you were initially presenting this to the  
 19 Shannon County Commission before you knew Secretary  
 20 Gant was going to also reimburse for the eight-hour  
 21 workday expense, you used these numbered to indicate  
 22 to Shannon County commission what their out-of-pocket  
 23 expenses would be, is that right?  
 24 **A That's correct.**  
 25 **Q** So at least at the time period prior to Secretary



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1 Gant's commitment for an additional 12,000, Shannon  
 2 County anticipated an out-of-pocket expense for all  
 3 election costs in 2012 should they do the full 46  
 4 days of early voting for both elections to be  
 5 \$48,285?  
 6 **A Of the county cost.**  
 7 **Q** Right.  
 8 **A After reimbursements, yes.**  
 9 **Q** I'm going to go hand you what's been Bates stamped as  
 10 N0338.  
 11 (Exhibit Number 168 marked for identification.)  
 12 **Q** And it's been marked Exhibit 168. I'll represent to  
 13 you that this is something that Chris Nelson supplied  
 14 us with. And it's a string of e-mails. As you can  
 15 see, it's three pages here. Are you familiar with at  
 16 least the first page of this document?  
 17 **A Basically, setting out what expenses that would be**  
 18 **reimbursable.**  
 19 **Q** Is this how you came to know what Chris Nelson was  
 20 going to say was HAVA reimbursable expenses?  
 21 **A Yes.**  
 22 **Q** The Department of Justice in their Memorandum of  
 23 Agreement with you did not require Shannon County to  
 24 have early voting satellite office -- an early voting  
 25 satellite office within the geographic boundaries of

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1 Shannon County, did it?  
 2 **A No.**  
 3 **Q** There was some discussion at least this morning with  
 4 regard to the opportunities that Shannon County  
 5 voters had in years where there was no or limited  
 6 satellite office in-person absentee balloting. What  
 7 other options did those voters have prior to 2012 if,  
 8 for instance, there was absolutely no in-county  
 9 in-person absentee satellite office?  
 10 **A They would still have the opportunity to do it by**  
 11 **mail or come to Hot Springs.**  
 12 **Q** Could they also vote close to home at their polling  
 13 place on election day if they wanted to vote?  
 14 **A To vote at their polling place?**  
 15 **Q** Right.  
 16 **A The polling place on election day, yes.**  
 17 **Q** Because of the requirements of your MOA with the  
 18 Department of Justice and because of your own rules  
 19 that you or one of your office staff members need to  
 20 be at a satellite office, can you have one person  
 21 ever man a satellite absentee office?  
 22 **A I would be afraid to because I would hate to have a**  
 23 **rush of people come in and be understaffed. And if**  
 24 **we have to step out of the room for any reasons, we**  
 25 **wouldn't want to leave it unmanned.**

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1 **Q** For example, could Jean Belt herself about be the  
 2 only person to run an absentee satellite office to  
 3 take early votes?  
 4 **A She could be trained. I would still feel comfortable**  
 5 **with two people there whether it be one person from**  
 6 **me and Jean -- I'd just feel best with two people.**  
 7 **Q** Is Jean Belt required to step out of the office to  
 8 conduct some of these requirements of the MOA such as  
 9 going to elderly groups, going to KILI Radio, et  
 10 cetera?  
 11 **A She does go and she has her schedule and there are**  
 12 **times that's why she has to have an assistant is to**  
 13 **be in the office when she's gone.**  
 14 **Q** You've done the early voting for the full time period  
 15 at a satellite office in Pine Ridge now for the 2012  
 16 primary election, correct?  
 17 **A (The witness indicated.)**  
 18 **Q** How many people did you say utilized that option and  
 19 voted at the satellite office absentee?  
 20 **A We had 46 voters.**  
 21 **Q** And what does that work out on average per day?  
 22 **A It averaged out 1.5 voters per day.**  
 23 **Q** We spent a lot of time earlier today talking about  
 24 the costs to Shannon County in providing early voting  
 25 prior to 2012. Prior to 2012, did Fall River County

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1 bill Shannon County for the cost of using Shannon  
 2 County's auditor staff that were taken out of the  
 3 courthouse and having to work at a satellite office,  
 4 was that an expense shifted over to Shannon County  
 5 prior to 2012?  
 6 **A That was a cost that Shannon County -- Fall River**  
 7 **never billed Shannon County for that. So, in**  
 8 **essence, I look at it as my Fall River County people**  
 9 **were subsidizing Shannon County in those.**  
 10 **Q** And that was prior to 2012 when Shannon County chose  
 11 not to bill Fall River County for the cost of taking  
 12 staff out of Fall River County's office to man the  
 13 satellite office, that was prior to 2012?  
 14 **A Prior to '12, yeah.**  
 15 **Q** There was some discussion earlier that the 2012  
 16 contract between the two counties required actual  
 17 out-of-pocket expenses to be shifted over to Shannon  
 18 County. Was that, in part, to do away with Fall  
 19 River subsidizing the cost of early voting satellite  
 20 locations and ship those over to Shannon County?  
 21 **A That's right.**  
 22 **Q** Does that explain why expenses incurred in 2012 for a  
 23 satellite office are higher than those paid  
 24 previously?  
 25 **A Obviously none of those prior years had any of our 8**

1 **to 5 day costs in there.**

2 **Q** Because you simply didn't charge it --

3 **A Right.**

4 **Q** -- for Shannon County? When we looked at the forms

5 that you use to seek reimbursement from HAVA, you've

6 got them in front of you somewhere. There is

7 language on these forms that indicate that expenses

8 need to be pre-approved by the Secretary of State.

9 Is that your understanding?

10 **A I guess that is what that says.**

11 **Q** And so you didn't just put every single last expense

12 on here even though you knew it wasn't reimbursable?

13 **A No. We only requested the ones that we knew was set**

14 **out by such things as this e-mail, what things would**

15 **be reimbursed for.**

16 **Q** When you say this e-mail, you're pointing to document

17 marked N0338?

18 **A Correct.**

19 **Q** Earlier we looked at your interrogatory answers where

20 you indicate certain costs were identifiable and

21 others were not?

22 **A Yes.**

23 **Q** And we also looked through this Shannon County 2012

24 expense here where you indicated that some lump sum

25 estimates include regular election costs as well as

1 **wasn't charged either, so...**

2 **Q** I understand that you don't write down or have your

3 staff write down every minute of the day and whether

4 it can be assessed towards what you do for Shannon

5 County or Fall River County, correct?

6 **A That's correct.**

7 **Q** But you've worked in that office for 30 years,

8 haven't you?

9 **A Close, yes.**

10 **Q** And throughout all of that time you've done work for

11 both counties?

12 **A Correct.**

13 **Q** Do you, based upon your knowledge of what you do

14 every day, have an understanding of what -- whether

15 your work at one particular time is done for Shannon

16 or if it's done for Fall River?

17 **A Are you asking like how we do in elections?**

18 **Q** You're never confused as to what you're doing right

19 at this moment is to benefit Shannon or Fall River,

20 are you?

21 **A No. No.**

22 **Q** So based upon your experience in your working there,

23 give me breakdown of just, in general, on average,

24 how much time do you think you spend doing Shannon

25 County work and how much time do you spend doing Fall

1 early voting costs, true?

2 **A Correct.**

3 **Q** Is that also the challenge when looking back at

4 previous years that you've got election costs as a

5 whole lumped together and you didn't break it out?

6 **A I've had breakouts more so now in '10 and even**

7 **further in '12. But in the past, they were included**

8 **with all expenses.**

9 **Q** And that's why you indicate that certain expenses

10 aren't identifiable as solely being early voting

11 because they're lumped together as an election

12 expense in total?

13 **A Right.**

14 **Q** Considering the fact that Fall River County did not

15 charge Shannon County the costs of the wages for

16 auditor staff to man a satellite office and then all

17 your costs aren't broken down and you didn't even

18 list it in your interrogatory answers if it didn't

19 specifically say it went to early voting only, do you

20 really think Fall River County made money after

21 receiving donations from Four Directions or HAVA

22 reimbursements?

23 **A I don't think so. I just couldn't see where there**

24 **were. And that -- the fact that, again, there was a**

25 **cost of us being down there during the day that**

1 River County work?

2 **A Overall? Are we talking overall?**

3 **Q** Let's talk about elections first, just elections.

4 **A Well, I personally think we probably spend two-thirds**

5 **of our time with Shannon County and one-third of it**

6 **in Fall River elections.**

7 **Q** How about overall, elections and the other duties

8 that the county auditor provides to both counties?

9 **A I think a third of the time would be close as far as**

10 **the bookkeeping and all of that.**

11 **Q** A third of which?

12 **A A third of our -- a third of our time would be spent**

13 **on Shannon County on everything excluding elections.**

14 **Elections, I think we spend two-thirds of our time on**

15 **Shannon and one-third on Fall River.**

16 MS. FRANKENSTEIN: Give me one second. That I

17 might be it.

18 (A pause.)

19 **Q** Sue, I am going to ask you about the issue that you

20 might recall from the preliminary injunction hearing

21 where it was discussed that OJ Semans had offered --

22 I believe it was \$11,000 to provide a satellite

23 office in 2010. Do you recall that?

24 **A Yes.**

25 **Q** And in 2010, you provided a satellite office only in

1 one town, not also in Kyle, true?

2 **A Correct.**

3 **Q** Why was that?

4 **A Well, I received an e-mail from Chris Nelson saying**

5 **he would only pay for one location. And then, again,**

6 **that was the commissioner -- the motion the**

7 **commissioners made.**

8 **Q** So ultimately the county commissioners decided to

9 have the satellite office in Pine Ridge and not also

10 in Kyle?

11 **A Correct.**

12 **Q** I'm handing you what's been marked as N03999.

13 (Exhibit Number 169 marked for identification.)

14 **Q** And it's been marked as Exhibit 169. Is this an

15 e-mail you received from Chris Nelson on August 23rd

16 of 2010?

17 **A I do.**

18 **Q** And is this an indication from Chris to you that he

19 will not allow HAVA reimbursement for more than one

20 satellite office in Shannon County?

21 **A Yes.**

22 MS. FRANKENSTEIN: I believe that's all the

23 questions I have for you.

24 THE WITNESS: Thank you.

25 MR. WILLIAMS: Mr. Sandven, I'll let you go

1 **Q** All right. So I heard some discussion there's some

2 gray areas on whether or not this Lakota coordinator

3 duties are related to early voting or other stuff,

4 right?

5 **A Our MOA with the Department of Justice doesn't**

6 **mandate we do the early voting, but if we do early**

7 **voting, it does request that we have a Lakota**

8 **coordinator or translator at our early voting site.**

9 **Q** All right. So on the Lakota coordinator, on those

10 costs in this budget that you've prepared --

11 **A Um-hmm.**

12 **Q** -- there's \$1305?

13 **A It was -- it was an estimate on having -- if Jean was**

14 **out or our coordinator was out of the office, to have**

15 **another assistant come in and be in the office to**

16 **offer Lakota translations.**

17 **Q** All right. So you said Jean Belt gets paid \$11 per

18 hour?

19 **A Off the top of my head, she does, yes.**

20 **Q** And her assistant gets paid how much?

21 **A I think I was just basing that on like 20 hours a**

22 **week at a lesser fee.**

23 **Q** What lesser fee?

24 **A Not \$11 an hour, maybe \$8 an hour.**

25 **Q** All right.

1 first. And if my questions get answered with your

2 questions, then I won't have much.

3 FURTHER EXAMINATION BY MR. SANDVEN:

4 **Q** Do you have Exhibit 166 in front of you? You just

5 got asked a bunch of questions. And this is a budget

6 that you prepared?

7 **A This is an estimate I prepared, yes, that included**

8 **the early voting and Lakota coordinator.**

9 **Q** It included both?

10 **A And general fund expenditures.**

11 **Q** All right. So what I'm looking at at the top, this

12 is the Lakota coordinator, the early vote, and the

13 normal election costs?

14 **A Correct.**

15 **Q** All right. So what Lakota coordinator expenses on

16 Exhibit Number 166 are not going to be reimbursed

17 with HAVA?

18 **A If we had to have an assistant HAVA, in the past I**

19 **have not been reimbursed for that. And we had the**

20 **FICA, we have costs on the assistant and that has not**

21 **been reimbursed. And I think that's the main thing**

22 **that would not be reimbursed.**

23 **Q** So --

24 **A And the -- oh. I'm sorry. Yes, and that would be**

25 **it.**

1 **A Some figure.**

2 **Q** So an early voting cost is either the HAVA

3 coordinator or their assistant have to be at the

4 early voting location during that entire period?

5 **A During our -- as long as we're -- while we're in this**

6 **MOA.**

7 **Q** Right. And I'm talking about for absentee voting in

8 Shannon County?

9 **A Yes.**

10 **Q** So you've got to have someone cover that eight hours

11 a day for the full 64 days of the whole election

12 cycle?

13 **A Correct.**

14 **Q** All right. And you already know of those days that

15 Jean Belt's covered, 100 percent of her salary is

16 reimbursed?

17 **A Yes.**

18 **Q** By HAVA funds from the South Dakota Secretary of

19 State?

20 **A Correct.**

21 **Q** All right. You only need one person from her office,

22 either her or her assistant, to be at that absentee

23 voting location?

24 **A Right.**

25 **Q** Right. So during that 64 days that Jean Belt can

1 provide that service at the absentee voting location,  
 2 why do you need a second person running around?  
 3 **A Well, if I'm understanding you correct, we need Jean**  
 4 **or somebody else, who the somebody else is who I have**  
 5 **under the assistant.**  
 6 **Q** Right. So the only reason that this assistant cost  
 7 would be related to absentee voting is if Jean had to  
 8 run to a meeting to meet with the elders?  
 9 **A Correct.**  
 10 **Q** Or if Jean had to run --  
 11 **A To KILI Radio.**  
 12 **Q** To KILI Radio?  
 13 **A Right.**  
 14 **Q** So during an election cycle, Jean could schedule a  
 15 lot of things around these absentee voting location  
 16 hours, couldn't she? She could arrange some of the  
 17 stuff before or after?  
 18 **A She could. But we're there 8 to 5 and...**  
 19 **Q** Okay. So out of the 40 hours in a workweek during  
 20 the election cycle, how many hours would you estimate  
 21 that Jean had to get out and run around and do  
 22 something else? Is it running to KILI, she could do  
 23 that over the phone, couldn't she?  
 24 **A No. She has to go there to make the tapes.**  
 25 **Q** All right.

1 **A No.**  
 2 **Q** But if she did have to be away for two hours of a  
 3 day, then you would have to pay \$16 to that  
 4 assistant?  
 5 **A Yes.**  
 6 **Q** All right. So when you put this \$1305 here and the  
 7 associated FICA on the HAVA assistant wage, how many  
 8 hours were you anticipating that Jean would have to  
 9 leave the early voting location a week and this other  
 10 person would have to step in?  
 11 **A Well, I think when I did this, I was estimating 10 to**  
 12 **20 hours a week because I just didn't know for sure**  
 13 **how much.**  
 14 **Q** All right. So if it was 10 hours a week, all right,  
 15 and there's about six weeks?  
 16 **A Six weeks, yeah.**  
 17 **Q** So that would be about 60 hours?  
 18 **A Times 10.**  
 19 **Q** Right.  
 20 **A (The witness indicated.)**  
 21 **Q** So that would be about \$600?  
 22 **A Right.**  
 23 **Q** And then you would have to do both the primary and  
 24 the general?  
 25 **A So 1200, according to that.**

1 **A They tape her there.**  
 2 **Q** So she would have to run up to Porcupine and do that?  
 3 **A Right.**  
 4 **Q** Could she schedule that stuff around the 64 days of  
 5 early voting?  
 6 **A Some of our notices, we don't have them prior to the**  
 7 **64 days. You know, we can't advertise locations or**  
 8 **candidates or positions. You know, there's -- some**  
 9 **things it just has to be done --**  
 10 **Q** Right.  
 11 **A -- during that time period.**  
 12 **Q** So would you estimate out of the five-day workweek  
 13 that maybe Jean might have to spend half a day out of  
 14 that workweek running around and doing stuff that she  
 15 couldn't do right there at the absentee voting  
 16 location?  
 17 **A I can't say for sure.**  
 18 **Q** No idea?  
 19 **A How much time to be away because, you know, I think**  
 20 **her meetings are normally in the evenings, but**  
 21 **sometimes they're at noon. I think that just kind of**  
 22 **varies.**  
 23 **Q** Did you do any estimate of how many hours she would  
 24 be away during the 32 days for the primary or the 32  
 25 days before the general?

1 **Q** All right. So on this whole budget that you have  
 2 regarding the Lakota coordinator stuff, maybe \$1200  
 3 of that related to absentee voting would not be  
 4 reimbursed?  
 5 **A Which is why I did not put it under here as a**  
 6 **reimbursement.**  
 7 **Q** Okay. Then going to the next category, you put the  
 8 heading early vote is next?  
 9 **A Correct.**  
 10 **Q** Where on this sheet is there any early voting  
 11 expenditures that will not be reimbursed by HAVA?  
 12 **A According to this, the early voting expenditures as**  
 13 **we discussed, some of these could be a shared cost**  
 14 **like the rent, you know, obviously part of that rent**  
 15 **should be under early voting.**  
 16 **Q** But --  
 17 **A The cost that I had included on this that would not**  
 18 **be reimbursed was if you follow over to the total**  
 19 **cost after the HAVA reimbursement, this \$11,330 is**  
 20 **what I anticipated would not be reimbursed by HAVA.**  
 21 **Q** Okay. And what does that include?  
 22 **A That is our estimated 8 to 5 wages.**  
 23 **Q** And that's it?  
 24 **A Yes.**  
 25 **Q** Okay. But now we go back to your 2012 contract. Can

1 you find that exhibit in there? I believe it was  
 2 Exhibit 16.  
 3 **A Okay.**  
 4 **Q** How much is Shannon County already paying Fall River  
 5 County for your office of services?  
 6 **A Shannon County is paying \$20,000.**  
 7 **Q** For the clerk total?  
 8 **A For the clerk.**  
 9 **Q** For salaries?  
 10 **A They're paying me 14,200. And then they're paying**  
 11 **supplies and whatnot in the amount of 7,604.**  
 12 **Q** All right. So for 2012, Shannon County is paying you  
 13 a total of how much in salaries, total?  
 14 **A 24,000 -- 34,200.**  
 15 **Q** 34,200. And how much is allocated for operating  
 16 expenditures on the next page?  
 17 **A 7,604.**  
 18 **Q** All right. So Shannon County is already paying you  
 19 \$41,804 for you to do -- provide services to them  
 20 over there, correct?  
 21 **A Correct.**  
 22 **Q** And some of that money, you have no idea how much of  
 23 that money of \$41,804 is going towards that \$11,330  
 24 that you're claiming is not reimbursable? You have  
 25 no idea because that's not how the contract is broke

1 down, is it?  
 2 **A Correct.**  
 3 **Q** Right. And you went ahead and you just testified  
 4 that you thought two-thirds of the election expenses  
 5 went to Shannon?  
 6 **A Um-hmm. No. I said two-thirds of our time is spent**  
 7 **on Shannon elections.**  
 8 **Q** And one-third on your own in Fall River?  
 9 **A Correct.**  
 10 **Q** But then it flips, you said, for other stuff?  
 11 **A Right.**  
 12 **Q** And that's because of a limited land base and all  
 13 those kinds of things, correct?  
 14 **A Everything we do in Fall River, we also do for**  
 15 **Shannon.**  
 16 **Q** There just isn't nearly as much?  
 17 **A It's smaller, yes.**  
 18 **Q** All right. So now go back to that number that you  
 19 get a total of \$41,804, what percent of that would  
 20 you guess goes towards elections and what percent of  
 21 that goes to other auditing stuff?  
 22 MS. FRANKENSTEIN: I'm just going to object based  
 23 on foundation. She already testified that the amount  
 24 indicated here for expenses is a budgeted amount that  
 25 Shannon County pays directly to its vendors.

1 MR. SANDVEN: Thank you.  
 2 **Q** Go ahead.  
 3 **A I am not -- I'm not prepared to give figures on this.**  
 4 **Q** Right. So just like you were testifying earlier  
 5 where you don't have any figures that back up your  
 6 two-third, one-third analysis for elections --  
 7 **A I don't.**  
 8 **Q** -- no basis, right?  
 9 **A Another than my personal knowledge.**  
 10 **Q** And your personal knowledge is a gut feeling what you  
 11 see in the office?  
 12 **A What I see and what I do, yes, and what all my**  
 13 **workers do.**  
 14 **Q** And no records to back it up?  
 15 **A Nothing written down, no.**  
 16 **Q** And then the one-third, two-third analysis that you  
 17 did for other auditor functions --  
 18 **A Um-hmm.**  
 19 **Q** -- you have nothing to back up those statistics?  
 20 **A No, I don't.**  
 21 **Q** All right. Then when you look at the contract on the  
 22 amount of money that the auditor's office gets from  
 23 Shannon County, you have no idea what portion of that  
 24 \$41,804 goes to elections and what goes to other  
 25 auditing services, do you?

1 **A I've never tracked to get any of those.**  
 2 **Q** Right. It's all lumped up together?  
 3 **A It is.**  
 4 **Q** All right. Jean Belt gets \$11 per hour and I think  
 5 you talked that her total cost during election days,  
 6 it would be 64 days times eight hours at \$11 an hour?  
 7 **A I don't have my figures on how I calculated my**  
 8 **figure, but...**  
 9 **Q** Right. But we think Jean is \$11 an hour?  
 10 **A I think she is.**  
 11 **Q** And for her to work at the office and do the  
 12 interpreting, that's eight hours a day, you said?  
 13 **A I believe that's what I calculated on.**  
 14 **Q** And there's 64 days in a whole 2012 election cycle  
 15 she would have to do that?  
 16 **A Yep.**  
 17 **Q** So that's \$5632?  
 18 **A I just don't have my breakdown on how I figured that.**  
 19 **Q** Okay. Here's a calculator. What I'm trying to get  
 20 at, everything in that line item on HAVA salaries of  
 21 9680, is every nickel of that reimbursed by HAVA  
 22 funds from the South Dakota Secretary of State's  
 23 office?  
 24 **A Yes.**  
 25 **Q** All right. So that -- you don't have to pick up any

1 of that?

2 **A Right.**

3 **Q** So in this budget, you don't have any idea how much

4 of that \$11,330 that you're claiming of total county

5 costs after HAVA reimbursement is covered by the 2012

6 agreement with Shannon County?

7 **A I do not have the figures, no.**

8 **Q** And you would admit that some of the money in there

9 covers some of these costs, wouldn't you?

10 **A These costs would be just auditor costs. I have a**

11 **separate budget for elections.**

12 **Q** All right. So this money that's paid to you --

13 **A Um-hmm.**

14 **Q** -- 14,200 and \$20,000?

15 **A Um-hmm.**

16 **Q** Is any of that -- go for elections?

17 **A Everybody does elections in our office.**

18 **Q** Right. It's a collateral duty, right?

19 **A It's a collateral duty, yes.**

20 **Q** And when they contracted with you to go ahead --

21 Shannon County to go ahead and provide these

22 services, of course it included election services,

23 didn't it?

24 **A For normal day-to-day election services.**

25 **Q** Right.

1 **costs for this election yet.**

2 **Q** Okay. All right. You were asked a bunch of

3 questions on in-person delivery of ballots?

4 **A Um-hmm.**

5 **Q** All right. And that was a service that was only

6 provided to Shannon County. Do you remember

7 answering those questions?

8 **A You're taking about me taking ballots down there?**

9 **Q** Well, I thought it was talking about -- or I'm sorry.

10 Registration, voter registration?

11 **A Yeah.**

12 **Q** All right. On something that Jean Belt does?

13 **A Assists in voter registration, yes.**

14 **Q** All right. Do you know how many registrations she

15 delivered during the 2012 election cycle for the

16 primary?

17 **A We had very few.**

18 **Q** How many were there? Less than 100?

19 **A I would say, yeah.**

20 **Q** Probably less than 50, wasn't it?

21 **A Without the figures, I would say that.**

22 **Q** All right. Do you know how many folks that Jean Belt

23 helped with absentee balloting?

24 **A I don't think she had very many requests. It was**

25 **very little.**

1 **A But it didn't include going down to Shannon County**

2 **for 64 days.**

3 **Q** It didn't include the absentee part of it?

4 **A Correct. That's why that was added.**

5 **Q** Okay. The last time I'll ask this question. So on

6 -- in paragraph four of Exhibit Number 16, that

7 \$34,200 that went to your auditor and your clerk, you

8 don't know how much of that money was used for the

9 \$11,330 that you cite in Exhibit 166?

10 **A I don't have -- I do not have any figures to give you**

11 **an answer to that.**

12 **Q** Okay. All right. I thought I heard your attorney

13 ask you a little bit on the AutoMARK on insurance for

14 that \$200?

15 **A Um-hmm.**

16 **Q** Does HAVA reimburse that?

17 **A Anything to do with that AutoMARK, they reimburse.**

18 **But apparently I didn't put it down for**

19 **reimbursement.**

20 **Q** All right. So here today, you still don't have a

21 number of how much absentee voting in Shannon County

22 is going to cost Shannon County?

23 **A I told you that, I don't have that today.**

24 **Q** How come?

25 **A Because I have not had time to sit and analyze our**

1 **Q** It was less than 20, wasn't it?

2 **A There was very little voting activity for the primary**

3 **election.**

4 **Q** And that's not unusual, is it? The generals are a

5 lot --

6 **A The general should be busier.**

7 **Q** Right. And the number of early votes in previous

8 elections, do you remember how many there were?

9 **A Not without looking back through.**

10 **Q** Let's look at your answers. You're looking at

11 interrogatory number 3, ma'am?

12 **A Yes.**

13 **Q** All right. How many for the '04 primary?

14 **A We had 27 mailed and 47 voted in-office, meaning**

15 **Hot Springs.**

16 **Q** All right. So this was about the same as the 2004

17 primary election?

18 **A Pretty close, yep.**

19 **Q** 2004 primary election was a pretty sizable election.

20 That was a lot of voter participation that one,

21 wasn't there, as opposed to the 2000 election? Or

22 you don't remember?

23 **A I don't remember 2000.**

24 **Q** Okay. All right. And then what about how many

25 absentee votes were there for the 2006 primary

240

1 election?

2 **A We didn't do any early voting for the primary.**

3 **Q** Right. So that was a zero, wasn't it?

4 **A That was.**

5 **Q** So when you compare the early voting --

6 **A Or I had no records. I can't say.**

7 **Q** But as far as you know, there was a much better

8 turnout for the primary in 2012 absentee voting in

9 Shannon County than 2006, wasn't there?

10 **A I can't say without looking -- or without seeing**

11 **figures and I don't have records.**

12 **Q** Why wouldn't you have records of the number of early

13 votes for the primary in 2006?

14 **A I did not -- I did not find the records and it wasn't**

15 **written in our election book.**

16 **Q** Okay. What about the primary in 2008?

17 **A We had 85 voters in Pine Ridge and Kyle in two days.**

18 **Q** About how in 2010?

19 **A We had five Hot Springs in-office voters and three**

20 **mailed.**

21 **Q** All right. So when you look at the last election

22 cycle 2010 primary, the number of folks that voted in

23 person, there were eight times as many?

24 **A 46 votes, approximately.**

25 **Q** And there was only five in 2010 for the primary,

241

1 wasn't there?

2 **A I didn't do the early voting in the primary of '10.**

3 **Q** There was no early voting in the primary of 2010?

4 **A Correct.**

5 **Q** Why not?

6 **A I think we discussed that earlier.**

7 **Q** So when it says that there were five in-office, five

8 folks drove to Hot Springs that means?

9 **A That's correct. Or they could have been licensing**

10 **vehicles. I don't know. But they voted in**

11 **Hot Springs.**

12 **Q** And now there were 46 people that voted in person at

13 Pine Ridge for this primary?

14 **A In the 32 days, yes.**

15 **Q** And then when you look at the numbers that you put in

16 your supplemental answers, when you compare the

17 primary to the general --

18 **A For what year?**

19 **Q** Any year. There's sure a lot more people that vote

20 in the general than there are in the primary,

21 correct?

22 **A It's what I anticipate, yes.**

23 **Q** Right. The 2004 primary, 12 people -- or I'm sorry,

24 47 people donated in person, right -- or 47 people

25 voted --

242

1 **A 47 people came to Hot Springs and voted, yes.**

2 **Q** For the primary?

3 **A Yes.**

4 **Q** But for the general, 484 people voted in person,

5 didn't they?

6 **A Actually, we had 1189 people voted at our satellite**

7 **office in Pine Ridge. And we had 484 people vote in**

8 **Hot Springs or it was mailed.**

9 **Q** All right. So the right way for me to read this is

10 47 people voted in the primary in-office?

11 **A In the Hot Springs office, yes.**

12 **Q** In Hot Springs. And then the general in 2004

13 increased up to 1189?

14 **A At the satellite office, yes.**

15 **Q** And then you don't have any records for the next

16 election cycle for the primary '06?

17 **A Um-hmm.**

18 **Q** And then for '08, 35 people voted in-office?

19 **A That was '06, again, wasn't it?**

20 **Q** Yep. That drove to Hot Springs?

21 **A 35 in-office.**

22 **Q** But drove to Hot Springs, correct?

23 **A Yes. Correct.**

24 **Q** And then in the 2008 primary, you had five people

25 drive to Hot Springs, correct?

243

1 **A Correct.**

2 **Q** And 85 people voted at the absentee ballot location

3 in Pine Ridge or Kyle, correct?

4 **A In those two days, yes.**

5 **Q** In two days?

6 **A Yes.**

7 **Q** And then in the primary for the 2008, 448 folks voted

8 in Pine Ridge --

9 **A No.**

10 **Q** -- or Kyle, right?

11 **A No. You're incorrect. It was for 2008 general, not**

12 **the primary.**

13 **Q** I'm sorry. We're comparing -- yep. The 2008 general

14 went all the way from 85 in the primary to 448 in the

15 general --

16 **A Um-hmm.**

17 **Q** -- that voted at the satellite, didn't it?

18 **A It did, yes.**

19 **Q** And then in 2010, it went all the way from five in

20 person absentee voting in Hot Springs during the

21 primary to 435 people that voted in person at the

22 satellite, correct?

23 **A That's correct.**

24 **Q** All right. So you have no idea -- there's no idea

25 how many people are going to participate in a general

1 election at this satellite?

2 **A I do not, no.**

3 **Q** And history tells us there's dramatic increases

4 between the number of people that vote in person

5 between the primary and the general?

6 **A I anticipate we'll be hiring people from Shannon**

7 **County to help us in November.**

8 **Q** And why is that?

9 **A Because our voter turnout will increase.**

10 **Q** All right. And then your attorney asked you some

11 questions about you didn't make money. You don't

12 think you made money?

13 **A I don't think we made money. I just had a problem**

14 **with only putting down what I could specifically**

15 **identify without pulling vouchers because I no longer**

16 **had the vouchers. So I talked about identifiable.**

17 **It's not that there weren't a lot more expenses, but**

18 **those were the expenses I could with certainty**

19 **identify.**

20 **Q** All right. I thought I heard you say you went

21 through your books for a couple weeks trying to

22 figure out how much was spent on absentee voting?

23 **A I did.**

24 **Q** And after going through that for a couple of weeks --

25 **A Well, it didn't take two weeks to go through one of**

1 than went out in your identifiable costs?

2 **A Well, my identifiable -- I mean, I'm going to stand**

3 **strong on that. I don't think Shannon County made**

4 **money on it. It was not Fall River making money. It**

5 **was Shannon that took it. But I'm not saying they**

6 **made money.**

7 **Q** Can you answer the question?

8 MS. FRANKENSTEIN: I do believe she's answered

9 it. At least --

10 **A Can you repeat the question?**

11 **Q** Can you read it back?

12 (Question: "And under your identifiable costs

13 that you went ahead and prepared, you went ahead and

14 saw more money coming into Shannon County for early

15 voting than went out in your identifiable costs?"

16 read by the reporter.)

17 **Q** Yes or no, ma'am?

18 **A Identifiable costs, yes.**

19 MR. SANDVEN: No further questions.

20 **A But not total.**

21 MR. WILLIAMS: I just have a couple.

22 EXAMINATION BY MR. WILLIAMS:

23 **Q** Could you just walk us through a little bit with

24 regard to what happened this year? And Shannon

25 County did have 46 days of absentee voting at a

1 **your questions. I mean --**

2 **Q** But after reviewing all of the records that you have

3 access to -- and you're a bookkeeper for a lot of

4 years, correct?

5 **A Correct.**

6 **Q** You know the financial affairs as well as anybody in

7 that auditor's office, correct?

8 **A I do.**

9 **Q** And after going through everything that you could

10 find --

11 **A I'm just saying --**

12 **Q** Let me finish my question.

13 **A Okay.**

14 **Q** After going through everything you could find from

15 your figures that you produced in your answers, it

16 looks like Shannon County got more money for absentee

17 balloting in Shannon County than what they spent,

18 doesn't it?

19 **A Well, I'm not going to say that because if I look at**

20 **a bill and it just says advertising, I couldn't**

21 **determine what it was advertising so I didn't report**

22 **it because I reported what I could identify.**

23 **Q** Right. And under your identifiable costs that you

24 went ahead and prepared, you went ahead and saw more

25 money coming into Shannon County for early voting

1 satellite location --

2 **A Pine Ridge.**

3 **Q** -- in Pine Ridge, is that correct?

4 **A Correct.**

5 **Q** Is that at one location?

6 **A That was one location, yes.**

7 **Q** Okay. So we talked a little bit about the MOA with

8 the DOJ. Does that MOA require Shannon County to

9 provide the interpreter with an assistant?

10 **A It doesn't require it, no.**

11 **Q** Okay. Do you believe that the MOA imposes

12 requirements on Shannon County above and beyond the

13 requirements imposed by the State of South Dakota?

14 **A Yes.**

15 **Q** Did Chris Nelson at the time or the Secretary of

16 State Gant who's now Secretary of State sign that

17 MOA?

18 **A No.**

19 **Q** So in the MOA, Shannon County is required to have a

20 language assistant, is that correct?

21 **A Correct.**

22 **Q** And currently Shannon County has that assistant or

23 that language assistant and an assistant to that

24 person?

25 **A We have an assistant for when it's needed, yes.**



- 1 Q Okay. So -- and that person has an office. Is it  
2 Jean Belt or Pelt?
- 3 A **Belt.**
- 4 Q B-E-L-T?
- 5 A **B as in boy, yes.**
- 6 Q And she has an office?
- 7 A **Her office is what we've used for the office. We  
8 have a joint office for the Lakota coordinator/early  
9 voting.**
- 10 Q Okay. So this year for early voting, you used Jean  
11 Belt's office?
- 12 A **We secured a location for both functions, the Lakota  
13 coordinator and the early voting. We ran both  
14 programs out of that same location.**
- 15 Q So there weren't two separate offices?
- 16 A **No.**
- 17 Q And one of Jean Belt's responsibilities is to help  
18 Lakota language speakers absentee vote?
- 19 A **Yes. It's spelled out in the MOA what type of  
20 assistance she could give if we have satellite  
21 voting.**
- 22 Q And so this year she was required to be on site for  
23 the entire six-week period?
- 24 A **The MOA calls for us to have a language assistant if  
25 we -- if and when we do the early voting, yes.**

- 1 Q Okay. So for 46 days prior to the primary election,  
2 Jean Belt was there?
- 3 A **Or an assistant.**
- 4 Q Or an assistant. You were there?
- 5 A **Myself or staff members.**
- 6 Q Or a staff. So there was either three or four people  
7 on site?
- 8 A **There was three always.**
- 9 Q Three always?
- 10 A **Yeah.**
- 11 Q And potentially another person there?
- 12 A **No. Just -- it would be two workers from the  
13 auditor's and the Lakota coordinator or the  
14 assistant.**
- 15 Q Okay. And then every day you and your employee --
- 16 A **Yeah.**
- 17 Q -- ran ballots back to Hot Springs?
- 18 A **Or two of my employees. Two people from Hot Springs  
19 went.**
- 20 Q So do you think it would be possible to allow  
21 Ms. Belt to conduct the absentee balloting during  
22 those days?
- 23 A **Well, I'm still going to have our people take them  
24 down there. I just -- I don't -- I don't -- I feel  
25 that we're going to take them down there, we're going**

- 1 **to stay down there for that day and do the voting.**
- 2 Q And that's, basically, for security purposes?
- 3 A **Security and it just doesn't make sense for us to  
4 drive four hours and...**
- 5 Q You mentioned earlier that Pennington County has a  
6 satellite location in or near Wall, is that correct?
- 7 A **That's what I understand, yes.**
- 8 Q Do you know if they run ballots back and forth every  
9 day?
- 10 A **I don't know what they do. I've never asked them.**
- 11 Q So Jean Belt is already handling absentee voting,  
12 isn't she?
- 13 A **She's assisting with it and she's helping them -- if  
14 they need help with their ballot, she's helping them  
15 with that or helping them run it through the  
16 machines.**
- 17 Q So she's receiving ballots from your office,  
18 assisting people with those ballots and then sending  
19 them back to your office?
- 20 A **We're all right there in the same room.**
- 21 Q Okay. But she has that responsibility, also, with  
22 regard to ballots?
- 23 A **Again? Rich, I'm sorry.**
- 24 Q She -- as an employee, she is tasked with receiving  
25 ballots from your office?

- 1 A **She's tasked with assisting people to get the  
2 ballots, whether it be helping them in her office or  
3 helping them fill out the application or ask them any  
4 questions, but the ballots are still coming from  
5 myself or my staff.**
- 6 Q So if she were just to receive a bunch of ballots and  
7 work on site and store them in a safe for a week at a  
8 time, would that not make you feel a little bit  
9 safer?
- 10 A **It would not. I didn't even have a locked door down  
11 there at our Pine Ridge office.**
- 12 Q If she were to be able to secure the premises in some  
13 manner and put the ballots in some safe place, would  
14 that help alleviate your fear?
- 15 A **You know, I would have to think about that. It's got  
16 -- it's what I feel comfortable with and I can't  
17 answer that right now.**
- 18 Q I was just looking at the supplies number, 15,000 on  
19 the proposed budget?
- 20 A **Um-hmm.**
- 21 Q And you mentioned some of those were for the actual  
22 cost of the ballots, is that right?
- 23 A **Correct.**
- 24 Q Do you know how many of that was for actual ballots?
- 25 A **Oh, it could be up to \$5,000 or so.**

- 1 **Q** So 5,000 would be for ballots, approximately, and the  
2 remainder would be ink pads and such items as stamps?  
3 **A** **We buy the stamps. We have the envelopes for the**  
4 **early voting. We have all of the supplies that we**  
5 **put in our boxes that we send to the polling place.**  
6 **There's a long list of supplies that we use for**  
7 **elections.**  
8 **Q** Sure. So aside from the 5,000 in ballot costs, the  
9 rest would be miscellaneous office supplies?  
10 **A** **The ballots is the big thing I can think of, but**  
11 **there's a lot of supplies that we need and we spend**  
12 **it every year.**  
13 **Q** And did you mention this year, based on Secretary  
14 Gant's letter regarding reimbursement, that you don't  
15 believe that Shannon County will have to pay any of  
16 the costs associated with early voting?  
17 **A** **I think all of the costs would be reimbursed, yes.**  
18 MR. WILLIAMS: Okay. No further questions.  
19 FURTHER EXAMINATION BY MR. SANDVEN:  
20 **Q** What about the locked door? There wasn't a looked  
21 door?  
22 **A** **Well, there was a locked door to the building, but,**  
23 **you know, in our office there was no door.**  
24 **Q** So that's why you want your folks to go ahead and  
25 haul them back and forth?

- 1 **A** **I wanted my -- I'm responsible for ballots and that**  
2 **makes me feel -- when I send them down and we bring**  
3 **them back every day, that's how I'm comfortable with**  
4 **ballots.**  
5 MR. SANDVEN: Thank you.  
6 FURTHER EXAMINATION BY MS. FRANKENSTEIN:  
7 **Q** Sue, you just testified that you thought all your  
8 expenses now would be covered through HAVA. I'm  
9 going to draw your attention --  
10 **A** **Except for the assistant. I'm sorry.**  
11 **Q** Okay. Jean Belt's assistant still, to your  
12 knowledge, is not covered by HAVA?  
13 **A** **Correct.**  
14 **Q** Okay. Going back to the identifiable costs issue.  
15 **A** **Okay.**  
16 **Q** Go back to your answers to interrogatories. Is that  
17 it?  
18 **A** **Okay.**  
19 **Q** I'm looking at interrogatory number 4 in your answer  
20 to sub little E, and you indicate \$842 identifiable  
21 at this time. Not all records, such as mileage and  
22 wages are available anymore. So the records you did  
23 not have available anymore, obviously that number is  
24 not included in the \$842, correct?  
25 **A** **Correct.**

- 1 **Q** And any costs that were lumped in with other election  
2 -- general election expenses, you did not estimate  
3 what portion of that is allocable to early voting in  
4 that \$842, is that true?  
5 **A** **That's true.**  
6 **Q** So if someone were to indicate to the Court that your  
7 testimony is it only cost Shannon County \$842 for  
8 early voting and you made money that year, is that  
9 accurate?  
10 **A** **I don't believe so.**  
11 **Q** Would the same question be true for F, if somebody  
12 indicated to the Court that your testimony is that it  
13 only cost \$950 to conduct early voting in the 2008  
14 general election, based upon your figure here, even  
15 though you indicate that you couldn't find records  
16 and you couldn't break out the costs, would it be  
17 accurate to indicate to the Court that it only cost  
18 \$950?  
19 **A** **When I submitted this, I put identifiable because**  
20 **there were other costs. They just weren't**  
21 **specifically written out that said early voting.**  
22 **Q** And not all of your records --  
23 **A** **And so I didn't include them if I couldn't identify**  
24 **them.**  
25 **Q** And you also couldn't include costs for records you

- 1 couldn't find at all, is that true?  
2 **A** **That's true.**  
3 **Q** Okay. I'm going to draw your attention, again, to  
4 the contract between the two counties in 2012.  
5 Mr. Sandven had some questions for you. He did not  
6 draw your attention to paragraph 11, so I would like  
7 to. Would you read paragraph 11 to yourself, please?  
8 (A brief pause.)  
9 **A** **Okay.**  
10 **Q** Mr. Sandven had some questions regarding your chart,  
11 D 000222, and the expense of \$11,330 listed as not  
12 HAVA reimbursable?  
13 **A** **Right.**  
14 **Q** He asked you whether or not this was going to come  
15 out of the payment to the county auditor's office  
16 indicated on page 2 of the 2012 contract. Do you  
17 remember those questions?  
18 **A** **I do.**  
19 **Q** Because we see that paragraph 11 in here states that  
20 any of your salary payments to Fall River County  
21 employees are not included in this payment, they must  
22 be paid over and on top of the payments Shannon  
23 otherwise makes to Fall River, this 11,330 is not  
24 anticipated in the county auditor payments laid out  
25 on page 2 of this contract, is that correct?

- 1 **A Correct.**
- 2 **Q** So if Secretary Gant weren't to be gracious enough to
- 3 pay this under HAVA and somebody had to foot the
- 4 bill, Shannon County would ultimately have to pay it
- 5 pursuant to paragraph 11 of the 2012 contract, is
- 6 that your understanding?
- 7 **A That is my understanding, yes.**
- 8 MS. FRANKENSTEIN: Thank you. No further
- 9 questions.
- 10 FURTHER EXAMINATION BY MR. SANDVEN:
- 11 **Q** All right. Looking at this Exhibit 16, all right?
- 12 That 14,000 -- or that \$34,200, all right? You have
- 13 no idea what portion of that goes for early voting or
- 14 what portion of that goes for regular --
- 15 **A None of it -- okay. I'll clarify it. None of this**
- 16 **20,000 will go for early voting.**
- 17 **Q** How do you know that?
- 18 **A Early voting in Shannon County.**
- 19 **Q** How do you know that?
- 20 **A It will cover early voting done in Hot Springs, but**
- 21 **not at the satellite office.**
- 22 **Q** Right. But I thought I heard you testify earlier,
- 23 you don't even know how that came up with that
- 24 number?
- 25 **A Well --**

- 1 **Q** You don't have any idea why the salary for the county
- 2 auditor is at \$14,200, correct?
- 3 **A Well, it's -- I'm -- I'm -- I can't defend and**
- 4 **determine and tell you exactly how that came to be.**
- 5 **But your question asking how much of the 20 would be**
- 6 **-- that this would be, is this 20,000 pays for us to**
- 7 **do the bookkeeping, the payrolls, the accounting,**
- 8 **legislative, audit, everything that's required by our**
- 9 **office all year long. This would include anybody did**
- 10 **early voting in our office, but our contract this**
- 11 **year requires that if we do the satellite office**
- 12 **voting, Shannon County will pay for those costs.**
- 13 **Q** Understood. But if you go ahead and go back to the
- 14 contract, you didn't hire an additional county
- 15 auditor to do early voting, did you?
- 16 **A No.**
- 17 **Q** You didn't hire an additional clerk to do early
- 18 voting in Shannon County, did you?
- 19 **A No.**
- 20 **Q** You didn't hire anyone additional to do early voting
- 21 during the 2012 primary election cycle, did you?
- 22 **A So far not.**
- 23 **Q** All right. And the 2012 primary election cycle is
- 24 done, isn't it?
- 25 **A That is true.**

- 1 **Q** All right. So you didn't hire anybody new. How do
- 2 you know what portion of this amount that you're
- 3 currently paid by Shannon County on page 2, under
- 4 paragraph four, is allocated for election services or
- 5 early voting or regular voting?
- 6 **A Well, all I can tell you is this money is not going**
- 7 **towards salaries and wages that are going to fund the**
- 8 **satellite office.**
- 9 **Q** All right.
- 10 **A Outside of the office.**
- 11 **Q** All right. But you didn't hire anybody new?
- 12 **A I know that.**
- 13 MS. FRANKENSTEIN: I'll object. This has been
- 14 asked and answered. You can argue with her all you
- 15 want but --
- 16 **Q** Go ahead.
- 17 MS. FRANKENSTEIN: -- she's answered your
- 18 question.
- 19 **Q** Go ahead. But you didn't hire anybody new?
- 20 **A I haven't hired anybody new. This is the same cost**
- 21 **Shannon pays on an off election year. I mean, this**
- 22 **is a cost Shannon County is paying our office to**
- 23 **perform all of the duties we have to do.**
- 24 **Q** And you don't have a single record anywhere that
- 25 indicates who worked how many hours on Shannon County

- 1 elections, do you?
- 2 **A Satellite office?**
- 3 **Q** Any office?
- 4 **A Well, I --**
- 5 MS. FRANKENSTEIN: I'm going to object again
- 6 because you have asked this more times than I can
- 7 count. I'd ask that you discontinue asking questions
- 8 some many times in an effort to argue with this
- 9 witness. Rather, accept her answer that she's given
- 10 you and --
- 11 MS. SANDVEN: Just make your objection.
- 12 MS. FRANKENSTEIN: I have made it so many times
- 13 and you are not abiding by it.
- 14 MS. SANDVEN: Last question. This is it and I'm
- 15 done.
- 16 MS. FRANKENSTEIN: All right.
- 17 MS. SANDVEN: Read the question back.
- 18 (A pause.)
- 19 MS. SANDVEN: Please, ma'am.
- 20 THE COURT REPORTER: I have to find it.
- 21 (A pause.)
- 22 (Question: "But you didn't hire anybody new?"
- 23 read by the reporter.)
- 24 **A I hired nobody new, no.**
- 25 MS. SANDVEN: Thank you.

1 MS. FRANKENSTEIN: Sue, you have the opportunity  
 2 to read through the transcript and correct any errors  
 3 that you see in it and I would advise you to do that.  
 4 You just need to give her your address.

5 (Whereupon the deposition concluded at 4:45 p.m.)  
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1 STATE OF SOUTH DAKOTA )

2 ) SS. CERTIFICATE

3 COUNTY OF PENNINGTON )  
 4

5 I, CAROLYN M. HARKINS, Court Reporter and Notary Public,  
 6 South Dakota, duly commissioned to administer oaths, certify  
 7 that I placed the witness under oath before the witness  
 8 testified; that the foregoing testimony of said witness was  
 9 taken by me in shorthand, and that the same has been reduced to  
 10 typewritten form under my supervision; that the foregoing  
 11 transcript is a true and correct transcript of the questions  
 12 asked, of the testimony given, and of the proceedings had.

13 I further certify that I am not related to, employed by, or  
 14 in any way associated with any of the parties to this action,  
 15 or their counsel, and have no interest in its event.

16 Witness my hand and seal at Rapid City, South Dakota, this  
 17 9th day of July, 2012.  
 18  
 19  
 20

\_\_\_\_\_  
 Carolyn M. Harkins, RPR  
 Registered Professional Reporter

21  
 22 My Commission Expires: 11-24-2015  
 23  
 24  
 25

1 DEPONENT'S SIGNATURE PAGE

2 I, Sue Ganje, the undersigned deponent, have this \_\_\_\_  
 3 day of \_\_\_\_\_, 2012, read the forgoing pages 1 through  
 4 260, inclusive, have made the following change(s) (if any) to  
 5 said testimony, have stated my reason(s) for each change or  
 6 correction, and have signed below.

7 \_\_\_\_\_  
 Sue Ganje

8 Changes/Corrections

9 Page Line Desired change and reason therefore:

10	___	___	_____
11	___	___	_____
12	___	___	_____
13	___	___	_____
14	___	___	_____
15	___	___	_____
16	___	___	_____
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18	___	___	_____
19	___	___	_____
20	___	___	_____
21	___	___	_____
22	___	___	_____
23	___	___	_____
24	___	___	_____

25 (Use a separate sheet similarly designated for additional  
 changes, with signature of deponent on each sheet.)

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