

Douglas Kellner: Good afternoon, my name is Douglas Kellner, I'm calling the meeting to order. I'll ask the Commissioners to introduce themselves.

Jim Walsh: Jim Walsh

Gregory Peterson: Gregory Peterson

Douglas Kellner: And next have our staff introduce themselves

Todd Valentine: Todd Valentine

Kim Galvin: Kim Galvin

Paul Collins: Paul Collins

John Conklin: John Conklin

Bob Brehm: Bob Brehm

Tom Connolly: Tom Connolly

Dave Loomis: Dave Loomis

Joe Burns: Joe Burns

Anna Svizzero: Anna Svizzero

Bill McCann: Bill McCann

Cheryl Couser: Cheryl Couser

Bob Warren: Bob Warren, Election Operations

Jessica Alaimo: Jessica Alaimo

Douglas Kellner: Pardon where are you from Jessica?

Jessica Alaimo: with Capital New York

Douglas Kellner: Very good, welcome. And I see Aimee Allaud from the League of Women Voters.

Casey Seiler: Casey Seiler from the Times Union

Douglas Kellner: Thank you. So we start with the meeting of the Board of Canvassers. We have an amended certification from 7 counties, Clinton, Cortland, Columbia, Oswego, Rockland, Suffolk and Sullivan which are incorporated in the amended state certifications that we had before. Is there a motion to approve the certification as drafted by the staff?

Jim Walsh: So moved

Gregory Peterson: Second

Douglas Kellner: Those in favor say aye

[chorus of ayes]

Opposed? So that's agreed. And we should sign the certification. And Commissioner Walsh still has to sign that.

So that concludes the business of the Board of Canvassers and we'll open the meeting of the Commissioners of the State Board of Elections.

The first item of business is approval of the minutes of December 12, 2013.

Jim Walsh: Mr. Chairman I would like to have deleted from the minutes or the attendance of last meeting that we had the name of Liz Hogan. She was not here at the time. I believe she's left employment.

Douglas Kellner: Agreed. Are we all agreed on that correction? So on the motion to approve the minutes as amended, those in favor say aye

[chorus of ayes]

Opposed? Alright so the minutes are amended and adopted.

Next item of business are the unit updates. We'll start with the Co-Executive Directors, Bob Brehm and Todd Valentine.

Bob Brehm: In addition to the written report I think there's some items to highlight. Certainly the three day winter conference with the associations that you attended and the staff also. I thought it was well attended in general. As a group we treat this training session as an important one because it's probably the only one we can attend this year since the summer conference would fall right at the time that we're getting all of the designating and independent petitions for the primary and fall elections.

Two years ago because of the way the Board calendar falls on that it's very tough for us to go as a group to that one. So we really concentrated and did a number of sessions that the staff in the building provided as well as some training leading up to on the Coming to Albany Day and the Going Home Day in case the Commissioner wanted to come early or late. Whether the new Commissioner in training Bill ran a CLE training class for campaign finance that one was well attended also. So we really took that seriously and distributed also to those counties that couldn't make, a copy of all the material that we handed out at the conference. So that was very well received.

Also a few days later, we did receive the Executive Budget, a copy of the Executive Budget as it relates to the State Board of Election was in your packet. I think some of the highlights of the budget are we saw an increase in FTE's to the agency and an appropriation to the agency largely for executive proposal for an independent enforcement unit and as also a set aside in the budget.

Douglas Kellner: What is an FTE?

Bob Brehm: Full time equivalent position, sorry. So there's an additional 11 positions. Our budget submission was 5.2 million for both personal and non-personal services because that was what the budget directive indicated that the agencies had to give based on what was appropriated last year. The Governor's Executive Proposal was 8.14 million. Of that they set aside 4.26 for this Independent Unit to cover both personal service and non-personal service. Part of that they identified as 1.3 million that we had been asking for, for a number of years to upgrade the Candidate Management and Campaign Finance System. The proposal that we outlined was about 2.4 million dollars to upgrade it to what we thought it needed to be. 1.3 is in this state board budget proposal for this Independent Unit and they indicated an additional 1.1 million was set aside out of existing money in the general Government Information Technology Cluster Group for that purpose. So that the 1.1 and 1.3 equals the 2.4 that we had identified in the project and Dave and I attended a meeting last Tuesday where they confirmed that the money was there, the question is whether or not we can get stated using it or whether it has to wait for this Independent Enforcement Unit to direct that or not. So we've asked the question, we just don't have the answer yet whether or not it's available. Certainly the 1.1 might be available, the 1.3 is still perspective.

So, of the 4.26 million that's set aside for this Independent Unit, that leaves 3.8 for the rest of the agency which is consistent with our existing staffing level and our existing funding level. So there is no new resources in there to get the rest of our work done. But it seems to be consistent with the presented effort we had this year.

Other than that, other than the proposals the Governor put forward in his Executive, there are 4 Article 7 proposals that is for restructuring enforcement in general. There is also an Educational Bond Act in the budget. We already knew going into this year that we had

two constitutional amendments for this year because this state, Secretary of State had certified 8 last year, 6 were on last year's November general election, 2 were specifically set aside for this year. So in addition to the 2 we knew about, there's a third proposal that's out there that may impact our work for this year and that's the Education Bond Act. So the wording is in the proposal for those people who are interested in seeing what it might be should they be interested, the actual wording to go on the ballot is proposed in the language. I know that was of concern to some people last year, what the wording would look like. So anybody who wants to see it or hear it who's listening at home today, go there and read the bill.

In addition to, so the budget was really a big item for us. I think that kind of covers the larger items on our list. So I'm going to leave it at that unless Todd has more to add to it.

Todd Valentine: No, not with the budget. I mean we're still working on a couple of technical upgrades just to some systems. We replaced our phone system. Voice Over Internet Protocol phones. We're still adjusting to that because one of the things we're not getting is getting the metrics for the volume and call center so we're still working on that. We're also doing, you'll hear about an upgrade to the e-mail system, but it's really an upgrade to the back end of the e-mail system. We've already upgraded to the new user end when we upgraded our computers last year so, but even getting that pushed back so it didn't interfere with the campaign finance filing was like moving Heaven and Earth. So, that's where we're at.

Douglas Kellner: Alright. Thank you very much. Kim Galvin for the legal report.

Kim Galvin: Thank you Commissioner. Just to add something to Todd and Bob just so you know the Moreland Commission is still asking for documents in case anyone thought they quietly stopped. They're still requesting documents from us that we're providing.

Basically it doesn't look like we've done a lot in our written report we have a few bullets but as Bob indicated Paul updated the legal update was present for the panel session. I attended many of the sessions and discussed some things off-line with a lot of the Commissioners. I worked with Anna and Bob to put together on the legislative program that comes up later in the agenda and as always we continue to monitor cases that the Board has and we have participated in many inter unit meetings that we've had with the Board. Do you have anything to add?

Douglas Kellner: And you've worked on the legislative list and Paul has been spending a lot of time assisting the Campaign Finance Unit with some of their treasury collections.

Paul Collins: I created templates for them to use on a going forward basis. Also the regulations that we sought to start the SAPP process are going to be published this month in the New York State register and then 45 days thereafter, depending on the

nature of the comments we may receive, the Board can enact the repeal of 6211 and the changes of 6212 and also that 6206 on poll site surveys etc.

After the conference I sent a searchable PDF of the election law update to every election commissioner so they'll have it. It's a searchable document. They can use it and hopefully they will use it. And I also sent to the Attorney General's Office the two constitutional amendments to get their advice as to what they should say and what the abstract should say.

Douglas Kellner: Get it done earlier rather than late maybe.

Alright well thank you very much. Next is Anna Svizzero for Election Operations.

Anna Svizzero: Thank you Commissioners. We have been busy aside from all the prep work for the conference etc. we conducted two launch sessions for the Asset Management product that we now have. We are doing them regionally with a hands-on approach. We think that's a better way to deliver the message and it's also a better way for Bob and our team to get feedback. And the vendor's trainers are part of those efforts as well. We did have a third session scheduled for tomorrow in Syracuse, but because of the weather we postponed that. The trainers that come in for Asset Works are coming in from out of state and travel was going to be difficult so, and for our folks too getting to Syracuse, with all due respect to Joe would be not easy on a day like tomorrow.

We are working with the IT Unit to get the remaining counties that weren't able to utilize, for one reason or another, their memory cards for election night reporting that we did last November. We have our team members are each assigned to regions so any counties that are in their regions will be working with them to make sure that they are able to report in the manner in which we expect of all of them. That is our procedure now at the state board so we're just going to work on getting their compliance with that procedure.

We prepared certificates of vacancy in Senate Districts 8 and 20, and Assembly Districts 77 and 113. We're expecting additional letters of resignation, we haven't seen them yet but when we do get them we process them and send them to the appropriate counties. We're also collecting and aggregating county board annual report data. That's been coming in pretty well. We do have some stragglers. They are the perennial stragglers, so we're working on getting their reports.

The election results were amended due to litigation that was resolved at the county level which are the certificates that you signed earlier. We are preparing the CAPAS system for the upcoming congressional filings amending all of the candidate notices and other documents that are part of the reporting from that system.

We have entertained a demonstration on electronic poll books, it was enlightening. We shared out thoughts. They demonstrated their products and they're taking some of our ideas back to improve what they have. They are using it in other states, but obviously other states don't do business the way New York does so we are hoping to hold their feet to the fire in making those kinds of changes.

We are revising our county board procedures. We're working with NYSTEC to do that. We're going to do them in lots. Those that are security related. Those that are more operational. Those that are facility type security related so that we can have them in batches and we'll present them to the board in those groups for you to ratify and then we'll post and deliver them to the county boards and we'll work through any retraining that might be required.

We have in your packet today, proposed voting system upgrade from ES&S. We provided a recommendation, a copy of their proposal and also a resolution for your consideration. If you choose to move that project forward, the calendar that is in their original proposal would obviously have to be amended to reflect some new dates and we'll certainly keep the county boards in the loop on this process. We sent out the original proposal and then subjectively to the user group meeting at the conference and some e-mail comments that were received, ES&S revised their proposals, so we did send also to those counties the revised proposal and have had no comments. Everyone was in agreement at the conferences to what should be included in that upgrade, so it's a good sign that the process does work when vendors follow it, and it's been a lot easier on our team here to manage it.

The staff participated at the conference as I said, as Bob pointed out we did provide all of the power point presentations and handouts to the county boards. And I don't have anything else. Joe do you have anything to add?

Douglas Kellner: I have one comment on the subject of the election night reporting that you mentioned that your unit would be following up with the counties that did not fully comply with the election night reporting procedures and I just wanted to follow up on this and perhaps share with the other Commissioners the view here that the statute was amended so that the counties are now required to upload election night returns so that we can post them on the Internet promptly after the close of the polls. And most of the counties did a great job on this and of course, our own technical people set it up and so it was a good start. But there were 8 counties that had problems and my understanding is 4 of them were just problems that the counties need to work through glitches and 4 of them are counties that just didn't do it.

Bob Brehm: They did it less automated, so they weren't as prompt and as easy for us to manage but they did it so, there's 4 that...

Douglas Kellner: So my comment to Anna is that these procedures aren't really voluntary. That the statute gives the State Board the authority to set procedures and that her unit ought to be a little more aggressive with the relatively few number of boards that have not been cooperating as much as they should. And that's an important part of our job is to set procedures for the counties and when we set procedures they need to follow them, unless we agree that they're voluntary. And for these election night reporting procedures, it really doesn't work unless they do it the same way as everybody else.

Anna Svizzero: We'll continue to work with IT. Dave has also a regionalized kind of approach to helping these county boards out and Bob Warren has been working with the IT team so it's a joint effort. But I think we can handle it and get more participation for the June primary and doing training or on-site support that we need for that purpose.

Jim Walsh: If I disappear you'll take this chair.

Douglas Kellner: Alright. Well thank you Anna. So I just wanted to mention that so it doesn't pass so at least it's on everybody's radar that all of the counties have to cooperate and comply with the new law on election night reporting.

Anna Svizzero: We will work towards that goal.

Douglas Kellner: Alright thank you.

So next is John Conklin for Public Information.

John Conklin: Thank you Commissioner. We submitted a written report, I'll just touch on a couple of the highlights. The public information office remains very busy, a lot of press inquiries around the January periodic filing on the 15th. We attended the winter conference, and participated in several presentations. As was mentioned at the conference, we're finalizing a guide for both voters and county boards with the regard to the Move Act. Tom is working on that. We expect to have that completed by the end of the month. We're reaching out to the Asian American Legal Defense and Education Fund and the Korean American Civil Empowerment Group as they both expressed an interest in possible changes to the Bengali and the Korean translations of the voter registration form. So we'll be working on that. And Patrick and Greg in the NVRA Unit have visited Cattaraugus, Wyoming and Genesee Counties since the December Board Meeting to review their NVRA procedures.

I just want to make a couple of notes for the county boards that may be listening, the quarterly reports are due and if you have any follow up questions to the grand presentations from the conference contact Pat or Greg with your questions. Do you have anything to add Tom?

Douglas Kellner: Nobody has mentioned yet the ongoing follow up with the New York City Board of Elections on the Voter Registration Database. Is that, so that's John's Unit, public information that's mainly handling that. You want to explain...

John Conklin: We're in connection with the Council's Office as well

Kim Galvin: The Executive level as well.

Douglas Kellner: So do you want to summarize what's going on with that so people know what we're up to because it's an important issue that was raised in the report of the New York City Department of Investigation that was released just before New Year and why don't you report on what we're doing with that.

Tom Connolly: Well as I said the last Board meeting you've been monitoring and continue to monitor New York City Board's use of the NYSVoter System, they're onboard with now with regard to the New York City the DOI report a lot of that information took place largely before they came online with NYSVoter system. So I had reached out to the DOI last week and they were able to give us an electronic version of the list of the ineligible voters that were cited in the report. That information was given to IT and we're going to be doing some research to see with regard to the voters that were cited in that report, did we ever receive information as to those voters from the sources that we get the data from? If so when? Did we provide to the New York City Board? If so when? And is there a way for us to tell if there was an action taken on the City Board's behalf? So we're kind of in the midst of that now with IT.

Douglas Kellner: When do we expect that we'll have some answers in terms of our audit of those ineligible voters that were found by the Department of Investigation?

Tom Connolly: I mean and Dave correct me if I'm wrong but in our conversations with Shaikh I think that by the next Board Meeting we should be able to have that information because of right now he has the information that he needs. He needs to compare it to our records and I think that by the next Board Meeting we should be able to kind of review the results of that.

Douglas Kellner: Alright and I understand that there's also a meeting set up with the voter registration at the New York City Board to review procedures.

Bob Brehm: Mike Ryan the Executive Director had sent a communication to Todd and I and a follow up phone call and basically thought it would be better to have a face-to-face conversation to talk to him about list maintenance and registration items. We went back and forth with the staff last year, a couple of questions I had about list maintenance in August time period so it was right in the middle of the primary, the run-off the general. So the winter conference and the e-mail that he sent to Todd and I about some ideas for what he's talking about for list maintenance, we are doing the NYSVoter refresh so it's a

good opportunity to sit down and get an understanding from him, what is the information that we receive for list maintenance through the various sources that are state election law requires? What are the list maintenance procedures? And are there new items out there to more streamline the data that we're getting whether it be a death list or potential felons or potential duplicates to follow. I think it's helpful from my perspective, I mentioned is just review one more time the steps in the statute before we add new layers. And I think the DOI report is a good one. Are the agencies that are supposed to report to us deaths, felons, are these names that the DOI report...

Kim Galvin: That's a critical first step I think to verify that we got those names and

Bob Brehm: Are they coming from the same source or is there some other group that's feeding the data? Is the system working? So we're looking to see to make sure that our own system is getting the information and transmitting it. If it's coming from some other source, is that a reliable source? Is it a duplicate source? Is it just something that we never knew about and is it available now to get? If it's valuable. So we're going down on the 20th, was the date that worked best for all of us to have that conversation. But look for all of the list maintenance requirements and if they're following them, they understand them, there aren't any questions and what are the new items that we need to do, if any, to reinforce or strengthen or train or whatever we need to do. If they're new ideas while we're doing the NYSVoter Refresh, it's a good time to look at it anyway. We're going to have the system open for updating, it's a good time if there's any new ideas to incorporate them if any.

Douglas Kellner: Good I appreciate that report. Anything else from Public Information?

Then next is Bill McCann for Campaign Finance.

Bill McCann: Thank you Commissioner. Just some updates as Todd had mentioned, we do have a new phone system. Had a little bit of fits and starts with it as it was basically implemented right before the January filing which is the biggest filing of the year. Patty Boyd who is the supervisor of that unit has been working with Admin to resolve some of the issues so we can get the metrics that we rely on, call volumes, who gets them. The old system was very robust in providing us information. The new system may not have that same robustness and it may require our actually putting in formal requests to the folks that run the phone system in order to get the data, where before we could just go in and pull the data ourselves. So we're working on some of those items to resolve that so we can have the functionality that we've been used to. So we don't actually have the call volumes for January, but we're hoping to be able to get that in some way, shape or form sooner than later.

As of February 3rd, we're still maintaining over 14000 active filers. We did sent out the 5 day for the Dunning notice for the January filing to almost 2500 distinct filers which is

the largest ever, largest mailing as you know. We send it out by certified mail and first class mail, but also towards that end, we've been relying on assistance from the counties, the county boards. We send them PDF's of the folks in their own county since they're most likely apt to know those people more than we would to ask them to help bring them to make their filings so that we don't have to sue them. Toward that point, the Order to Show Cause for the January periodic is scheduled to be filed on February 27th. We have pursuant to the directive of the Commissioners we will be seeking the court to allow the service of process via the mailing based upon the document on file with the Board. We will certainly update the Board as to the court's review of that.

As was also mentioned, we provided a CLE at the ECA Conference which Commissioner Kellner attended. We had a nice crowd, many Commissioners and staff. We also conducted several 5 Winding Down The Campaign seminars around the state from our EOT unit. The ideal for that seminar was to, a lot of people think when the election is over they're done, they don't realize that, that's a pitfall for getting into some trouble. So we created this Winding Down The Campaign to kind of just lay out in general terms what the steps are that people can use to wrap up their filing obligations and so those were fairly well attended. It's a new program so we think that over time we'll get some good numbers on that.

We are also in the process of preparing our 2014 seminar schedule and CLE schedule and we, because now we have dedicated training staff, we're able to actually conduct those in a more robust fashion, meaning there's more of them. But, because of budget restraints we're doing many, many more as a day trip. We have to work that into the schedule because of overtime issues and things like that which are frowned upon so we try to make it convenient for staff to do those.

We're also working on since it's the early part of the year, we traditionally work on our updates for our handbook, our forms and our filer update. We send a filer update to all active filers usually in the first week of April and it gives them updates on information, useful information that they may have forgotten, it gives them the filing calendar, also the calendar of our seminars and that goes out to all our filers and that's a big mailing we do in April and that then generates quite a volume of calls.

We're also in the process of updating our software for EBIZ which is our scanning vendor. That contract is set to expire at the end of the month. It was a 5-year contract. We're updating to a new software, staff has been working with the vendor to set up unique cabinets they're called, so that each unit, as they have a need can access those documents as they're scanned to use them for their purposes.

And there has been a working group, working with Bob and Todd to manage the unit on a regular basis but the staff is doing very well and we're continuing to do the business of the unit. That's my report.

Douglas Kellner: Judgment collection? How are you doing on that?

Bill McCann: I would defer to Paul on that. I know he's been assigned that project and he's been working with staff to, as he mentioned they do the templates and get the process rolling so.

Douglas Kellner: Well there was one that went out in December

Bill McCann: Yeah we've been in contact with the bank several times and we have had to no avail, received information from the bank. I have called on a regular basis.

Douglas Kellner: Are you serious that the bank hasn't responded?

Bill McCann: Correct

Douglas Kellner: Let's do that after the meeting. I'll join you and we'll call together.

Bill McCann: Sure, I'd be happy to

Douglas Kellner: Yeah let's do that.

And then so Paul you want to talk about what you've been doing?

Paul Collins: I have been following the arrangement of the commission that...

Douglas Kellner: You've sent out some subpoenas

Paul Collins: But what I did and, the concept that I was asked to follow through on was to chase the so-called top 10. The difficulty with that concept is that the top 10 by reason of them being the oldest. So I asked the folks over in Campaign Finance to do a reverse look up rather than chase something where there is nothing and there were 5 on the top 10 who were identified as having had activity. So with respect to those 5, I sent out restraining notices and information subpoenas to the bank and also an information subpoena to the 5 treasurers. They will be responded to and we'll see.

Douglas Kellner: And those went out about a week ago?

Paul Collins: Yeah

Douglas Kellner: So

Paul Collins: And I've created a template with a cover letter and everything so that I can kind of extract myself from this at some point in time because in most law firms, it's

generally run by a paralegal and there are some exceptionally bright and talented people over in that end of the building who can do this.

Douglas Kellner: Great, well we appreciate your help on this especially given the fact that...

Paul Collins: The problem though Commissioner is that you've identified the old ones and that's not how I would have done it if I were running the show. You ought to be chasing the fresh ones where there might be some recovery because the judgments are two fold. There is one a monetary aspect of it, and two there's an injunctive aspect of it to file the missing report. And you'd have better luck I think getting that filed with the new ones as opposed to the ones that are back in time that may just be defunked.

Douglas Kellner: So what's the process for getting that re-evaluated?

Bill McCann: Well the issue of the older versus the newer ones was just brought to my attention, then the committee will review it and then it'll be Bob and Todd that will make that decision so.

Douglas Kellner: Alright so it's on the agenda for the Campaign Finance Unit to look at.
Alright great.

Then we'll have Dave Loomis give the report for Information Technology.

Dave Loomis: Thank you Commissioner. I just want to point out 3 projects from our list from our report. The NYSVoter Refresh Project that's been mentioned is our effort to make all the hardware and software that's currently running the NYSVoter system and replace it and upgrade it so that we can continue operating the environment and address any end of life issues. We made some really good progress on that this month. We have the project manager onboard. We've been doing a lot of the initial scoping of the project. Both the scope and the initial timeline are ready for review and so we have the funding resolution in your packet today to be voted on.

As Bob mentioned, the Candidate Management and the Campaign Finance System, we're working under the assumption that we do have the funding for that project so we've started working on the initial steps to bring resources into start moving that project forward. So we'll have a better report at the next board meeting on that.

I just want to point out...

Douglas Kellner: What is the schedule for that Dave? Assuming that the money stays in the budget.

Dave Loomis: We had identified it as an 18-month project from the time when we could have the resources available to begin. So what we're doing now is bringing in the, we have to do a number of things just to get the resources in place. So we're doing that background work right now and that'll help us address where the funding is and how we'll be able to move, how fast we'll be able to move on it. But I would say that once we get all that in there, we've got about 18 months of effort to see the final product.

Bob Brehm: The only concern is dividing the 2.4 million into 2 different pots of money, the 1.1 is available, we just learned in the last week is this year money, it's not in the budget next fiscal year money. So the first issue is only part of the money, so we think we can get started and that's what we're working on. The 1.3 is set in the budget so what format will it, will the final budget be and what, if any restrictions. Because right now, it's in the independent group section of the budget. So whatever the final budget looks like, we'll have to re-evaluate that. So that might just make a slight adjustment to the calendar. If it stays that way, how do we incorporate that...

Douglas Kellner: Well that's a real positive step. This is the first time in years that...

Bob Brehm: ...that we've had any resources yes.

Douglas Kellner: So that's really good news.

Dave Loomis: And the only other thing I wanted to point out and Todd mentioned the e-mail system is being moved over and the date they have set right now is February 10th. So in order for that to happen, we need to do a lot more testing with ITS the main IT group and make sure all the procedures are in place. But that is their targeted date right now is February 10th.

Bob Brehm: It's an interesting thing with the general government cluster, I think I was the only person who raised it at the meeting and that's as an enterprise program it makes a lot of sense. But then again we have experienced now 2, probably 3 if you could the first e-mail upgrade was just before they became an enterprise project. And that was not well managed. The voiceover internet program for 6 months we asked for the plan and implementation and they showed up like the day before the election to survey the building and to have everybody jot down the telephone numbers and had to work on every phone in the building, because we weren't doing anything else the day before the general election, so it fit in easily with our...but we made it happen. We're a team kind of group. But then we kept asking the questions that Bill had, how is the phone system going to work? And the answers kept, we've got it all worked out, we're going to plug it in. It's going to take us a few hours, we're going to be on staff for 2 days training everybody. Well they plugged it in, it didn't work. The training was, go to the e-mail and read the material and it basically was 7 days of break fix. When the calls that came into Bill's unit couldn't be transferred to the IT unit. So I raised it at the IT meeting, if this is going to work and it can work, you really have to better manage these projects to

test them before you plug them in. And our concern was we participated in the voiceover internet and it wasn't well, it was a break fix for a week. a lot of people in the building had to do nothing but keep testing the system. And we got through one-step but now something else was broke and then we followed up and they would fix it. But it really took a lot of resources during the week and we were really busy because people were trying to file Campaign Finance Reports. And then they said, and we add this to other effort which is to upgrade the e-mail system that we're going to do the day after the voice internet work without any testing. So Todd and I did call just about everybody we could, mostly our Deputy Secretary because we got nowhere going directly to the General Government Cluster and basically said, we're all for doing this and scheduling it after you've given us an implementation plan and Dave has had a chance to test it. Because we cannot have both the phones and the internet not working at a period of time when everybody has to file Campaign Finance Reports with us. So they have to file it electronically and if they can't do that, they have to call us and if both of those aren't working, how can we possibly enforce compliance? So we got an extension until February 10th but our message has been the same, only if it's well tested. And it passes the test. So that's our plan. It seems to be a rational plan when it comes to technology so I did communicate that at that meeting that we went to last Tuesday. And it just seemed they're not doing enough of that yet. So it's a good, I like to say, it's a good concept but the details really need to be better worked out so that the agencies that rely on their service can have a testing plan and then as soon as the test passes, what's the best day to plug it in? So it's a concern. We spent a great deal of time and Dave and Todd and I and the whole staff...

Kim Galvin: We called each other for several days

Gregory Peterson: What is the agency that over sees this?

Bob Brehm: It's the new agency information technology so the acronym is always the same OITS

Kim Galvin: I liked OTIS better. Plus the phones really stink. That's my addition to the problem. They don't hang up, they don't do

Bob Brehm: Oh yeah we have the fix for that. It's cheaper because it's voice over internet so that's the logic behind changing the phones.

Bill McCann: You have to dial all ten numbers just to call next door unless you have a new phone.

Bob Brehm: We used to have to dial 9 numbers so 10 numbers is star 99 plus 7

Kim Galvin: No we used to be able to dial the extension, now we have to dial the whole number. You started it.

Anna Svizzero: You opened that door, we're all marching through it

Bob Brehm: But we'll all team players.

Douglas Kellner: Commissioner Peterson has a thought.

Gregory Peterson: I always looked to the top part of this, who's responsible and it seems to me that if it's that much of a mess-up, that person really had to be called to task and let that trickle down till it gets fixed. I don't know who that person is that's why I asked the question

Bob Brehm: We started with the agency and when that didn't get us the response, we went to the Deputy Secretary and that at least got us the delay and we're now on a better path. So we're thankful that we got a delay and we have the test now and we've communicated as soon as we pass the test we'll schedule, if we could do it earlier we would if that made sense, but the most important part is pass the test.

Douglas Kellner: alright well the next item on the agenda is the resolution to approve the funding for the New York Voter Recess Project from the federal HAVA monies.

Paul Collins: Mr. Chair did you skip old business?

Douglas Kellner: We don't have any old business

Paul Collins: Alright. It's on the agenda, just checking.

Kim Galvin: But underneath it there's nothing

Douglas Kellner: So the resolution has been distributed. I don't know that we need to read it and Anna already explained that the state law requires that the commissioners vote to improve any disbursements of HAVA funds.

Jim Walsh: Move for the approval.

Douglas Kellner: Those in favor say aye.

[chorus of ayes]

Opposed? Resolution carries.

Kim Galvin: May I just make a comment on this resolution?

Douglas Kellner: Of course

Kim Galvin: Unbeknownst to Anna for which I am apologizing.

Anna Svizzero: This is not my resolution it's David's.

Kim Galvin: Oh wrong one sorry, go ahead. Sorry. I had the wrong one in front of me. Never mind. Sorry Dave.

Douglas Kellner: Alright next is the resolution to authorized proposed upgrades to election systems and software DS200 voting system.

Jim Walsh: So moved

Douglas Kellner: Is this the one you wanted to comment on?

Kim Galvin: It is

Douglas Kellner: Go ahead.

Kim Galvin: When I see this resolution, a few things immediately spring to mind. One is the timing, when its done and which election it will be ready for and the time that the county has to do the upgrade and when we, I don't want to get down the road and through no fault of our own, 3 weeks before a fall primary and then we look like the bad guys for telling New York City that, or whoever, that they can't have their updates. So timing is going to be an issue that I'll be watching with regard to this.

Secondarily, I've heard that some of the counties aren't interested in doing this upgrade. So the fundamental and primary question of, are we going to allow different versions of software that have both been certified to run in the state I think is a very vital issue that the staff and the commissioners need to talk about and discuss and come to the understanding. Particularly in light of the maintenance fees in some counties taking them, some counties not and the Dominion and the ES&S world should they develop a new software, whose going to pay for it? What's it going to be? If Schenectady says they don't want to do this upgrade but New York City says they do, what are we going to do about those situations? So I don't know the answers. I've asked the questions a lot of time. I thought maybe I would ask the 3 of you if we could start a conversation so that we can all come to a consensus so when asked we have a unified decision.

Jim Walsh: Go ahead

Douglas Kellner: I think that's productive although I'm not aware that there's any county any DS ES&S county that doesn't want the upgrade. Anna is that not true?

Anna Svizzero: That's absolutely true. There is no county that expressed any reticent in the user meeting or in any of the several opportunities they've had to correspond with us on it. I think the bigger issue was because ES&S is paying for this particular upgrading of counties who wanted the changes. Some counties wanted some, some counties wanted others. New York City is obviously driving the bus. They wanted the bigger part of this.

Douglas Kellner: That's the important thing Kim on this particular upgrade is that ES&S is footing the bill.

Kim Galvin: Right I understand that but it still doesn't negate the fundamental question of moving forward what we're going to do. So let's say this comes out 5 weeks before an election and somebody or 7 weeks before, not the federal election, the state primary if they don't unify them and for some reason one of these counties says all of those upgrades are nice, well we don't want to upgrade our machines now.

Douglas Kellner: I think we should deal with that when it comes. My own view on this...

Kim Galvin: Because they are asking.

Douglas Kellner: Right but this is, I'm just one of 3 commissioners right now, but my own view on this is that in general we should have a uniform system statewide. But that doesn't mean that we're locked into that as some kind of higher, you know, that's just a general principle, but if there's a reason why there should be a separate system, we'll go with the separate system. As it is right now, we have 2 vendors, not 1 vendor so some counties are using Dominion, others are using ES&S. Does that mean down the road if some counties want to use ES&S version A and other counties want to use ES&S version B, we'd look at it and we'd see if it makes sense. If there's a reason to have it. But unless there's a good reason to have different systems...

Kim Galvin: Well this particular example would be ES&S footing the bill, it is a differential that really does matter. But moving forward when...

Douglas Kellner: With Dominion it's more difficult. Obviously whenever there's an upgrade, this is what I've been telling people, that whenever there's an upgrade, you have to figure out whose going to pay for it. In general, upgrades that are required because of statutory changes or our regulations or procedures, we ought to pay for it. But there's no money in the budget for that right now. But it seems to me that's a proper state expense and should not be a county expense and trying to pass it on to the counties then is difficult because you then get into the issues of first of all is it in the county budgets, and then do you compel the counties to do it? And this is why I've been suggesting that it probably does not make sense for the counties to be paying for software maintenance as part of their contracts because it's not clear what they would get for that.

Kim Galvin: Let's say I agree with you, big deal, but let's say Erie County who we know has bought ES&S. Let's say there's Monroe County who has bought software maintenance and they want to develop these changes or whatever and Dominion works with them and develops them. Then we're going to have a situation that we have a problem.

Douglas Kellner: Right because the first question is, who's going to pay for it?

Kim Galvin: So let's say Monroe paid for it and then does everyone have a right to it even though they didn't pay the maintenance? So I think that we just need to explore the bigger picture and understand that the certification of one version doesn't effectuate the decertification of the prior versions.

Douglas Kellner: Well I'm suggesting that as a rule that should be the case but there may be reasons why you would allow two different versions to be used throughout the state. The real issue is when you do a new version, whose going to pay for the upgrade? Because unless it's very minor, you are talking half a million dollars as a starting point for doing the testing and certification.

Kim Galvin: Right and the vendor you know may make changes for, should the vendor take the position, yeah we've made these changes for, let's say, New York City cause they're the big fish, and we'll pay for the certification, but these other 3 counties didn't buy software maintenance so we don't believe they have a right to them.

Douglas Kellner: No fortunately ES&S has not been doing that.

Kim Galvin: No thus far. But I think that there's bigger issues that we need to get our heads around because it's going to come to pass and we need to at least have some sort of statement.

Bob Brehm: I have to say this is the, sorry Anna

Anna Svizzero: It's okay go ahead

Bob Brehm: ...that they actually followed our change management process so I think, I think...

Douglas Kellner: It's a start yeah

Bob Brehm: ...as we've learned in some of these other projects that these issues were a problem was when we were delivered a change and we didn't have this vetting process ahead of time. So now we've had a clear understanding of what they're proposing. They've talked to their customer, they verified, we've talked to the customer to make sure we're all on the same page..

Douglas Kellner: And the thing you hear your target is ES&S

Bob Brehm: ...in this case the vendor whose proposing the change talked to their customers. We've added their proposed change with their customers to make sure there aren't any miscommunications out there. I think all of the time issues we all understand. You don't know what you're going to find until you get under the hood and start kicking the tires for the test drive. So in talking with New York City they understand that too our goal is to do what we can and as we know, we, in any of these certification issues, we have to get a little closer to it being done and then look at our watches and the calendar and say, okay now that we've come up for air and we know it's pretty close to being done, how does it fit into the world that we really have? And I think it's a fair analysis to say, well it's possible maybe, I can see it's possible. So we'll do what we can to get there and then if everything works wonderfully, we'll be back to recommend to you the next step. And that analysis is really important and at the time last time, some counties said, oh yeah we can plug it in real quick and others said, oh I can't. So we'll have to figure that out.

Kim Galvin: Right well I was just...

Douglas Kellner: I think we agree on that. And I guess we should also mention that ES&S is submitting the proposal to us, but they're doing it at the request of New York City which initiated this process and I think New York City, well as Bob said, we've now got a good set of communication between the leadership at the city board and the state board to coordinate this. And the city really does want to try to get this done for the September primary. Am I right or is it? So they have a very tight timetable for doing this. We haven't made any promises but so far everybody's been working hard to ...

Kim Galvin: No I was just raising the issue in general.

Anna Svizzero: Well I can't tell you how happy I am that that issue is back on the table since we tried to broach it last year and didn't have much success with it. if you want, I can have Bob Warren and Joe and I can have Bob Warren work on some pros and cons, but we do have a history of allowing counties to use different versions of the same software with the Sequoia teamwork absentee system. There is a New York version, there's for example, more a downstate version because I think Westchester uses it now too, and then the upstate version for those counties that are choosing to stay with it. We authorized both of those versions when we last brought this up. So we have a bit of a track record there but we don't have...

Douglas Kellner: There's a reason for it

Anna Svizzero: Exactly. So we can put together some talking points if you want and bring them back to you a little bit further down the road. This resolution is meant to get

the testing done. Obviously the calendar in it, as I mentioned in the unit report would have to be revised. It's firmware only, it's not source, it's source code in the EMS so it's a limited intrusion if you will into what we've already certified. It doesn't change how ballots are counted. It really changes the technicians work, the inspectors, alerts for the inspectors to know that their system is actually ready to go in the morning, that something hasn't happened in transit that would prevent that system from being able to accommodate voters first thing in the morning, etc. etc. So that's our goal is to at least get the testing done and move that forward. The June date that was in the various correspondence that came from New York City and that's in the proposal as well, is really so that counties can train their inspectors. They do training in May and June. So if these changes are going to be in place, that's when they get their biggest bang for delivering that message to their inspectors, as opposed to having the money to do another training later in the summer which is never going to happen or a mailing that they're really not going to understand.

Kim Galvin: However the election in June won't have this upgrade in it.

Anna Svizzero: No it won't. It's not meant to.

Douglas Kellner: I think we're talking September for New York City

Kim Galvin: So training in May and June for a software that they're not going to use that June could be a problem. I was just raising...

Anna Svizzero: Well that's their call

Kim Galvin: I didn't mean to catch you off guard. I know that we had discussed it. I just think it's important. We've tried internally several different avenues to start these conversations and I think ...

Anna Svizzero: Well it's good their back on the agenda.

Douglas Kellner: Anything else? On the resolution, those in favor say aye

[chorus of ayes]

Opposed? It's adopted.

Legislative packet.

Kim Galvin: Oh great, now she'll catch me off guard. We had several meetings as we told you at the last meeting to develop a legislative packet. What you've been provided, the proposed bill drafts and the sponsor's memos, many of them are oldies but goodies that don't see to have any traction, but there are some significant ones that I think we

should really urge the legislature to look upon and pass both for usability purposes and the creation of the 13th judicial district. They may look simple, but many of them do in fact make a rather prominent effect on what's happening. For example, SPOE1412 is one that you haven't seen before. With these new machines it takes more than a half an hour to get everything started so to modify that so people get paid and counties know, we shouldn't call the inpatients at the Veterans Administration hospital inmates, we should call them something else they've objected to the tone of the word inmate.

Pasters and stickers 1408 they tend to goo up the machines and don't allow the interface to read properly. So there are some rather simple but still meaningful proposals in here.

I know that 2 other or at least 1 other main thing was about usability draft that we all, well Bob and Anna and I sat through and went over the procedures. At this point, some of us think that it would be best if we continue to work through that perhaps broke it up into less heavy sections if you will and make sure that the counties are okay with the changes. I understand that to get out in front on the issue is important because often people don't understand when you touch this little thing over here, it may ripple through the effects over with what the other hand is doing and I just think we just need to discuss it just a little bit further and maybe look at a way to individualize it to make sure we know what we're doing.

Douglas Kellner: Alright. So certainly I'm prepared to vote on the packages we have here and maybe we should do that and then if it's okay I'd like to just take a minute to talk about some of the things that aren't in here.

Jim Walsh: I move for the adoption.

Douglas Kellner: Okay, those in favor of the election law proposals for 2014 as presented by Ms. Galvin say aye

[chorus of ayes]

Opposed? Alright so the legislative package is adopted.

There...

Kim Galvin: Just for clarification it's our understanding that this is going to go up to all legislative majority and minority ranking members or any of the staff assigned under a dual signature by the co-executive directors.

Douglas Kellner: So I just wanted to take a minute to talk about the 3 other drafts that are basically circulating around the office, at least that's my understanding.

One you talked about which is ballot usability. And I think we all agree that we want to continue working with the legislature and negotiating on the details of that. So that sounds like that's under control.

The second one is a draft that we circulated, we meaning the democratic staff circulated on revising the canvass procedures section. So we have a new bill passed by the legislature last year that has separate procedures for New York City and the rest of the state. And a few glitches in it.

Bob Brehm: That I haven't done. The three I have was the Article 7 usability, the E poll book and we've shared a concept to talk about which is the 9-211. We have talked about the need to do something in Article 9 but we haven't...

Douglas Kellner: Well let's just go over that but I thought that there was a draft that's... alright. So we should, I would like to just add that on the staff agenda so that you're looking at that. I'm still very troubled, I'm glad the legislature passed the bill on the canvass procedures. It was a big improvement over what was there before. But I think it still needs a lot of work, especially because we shouldn't have separate procedures for New York City from the rest of the state. That there's no justification for the separate procedures. And there are also some other provisions that still need to be cleaned up in it. So, it's complicated and so it takes careful work and review.

Bob Brehm: I mean we had an Article 9 that we were talking about at the time and when the accepted New York language went in there we tried to recommend it come out for the very reason that you just said but we didn't succeed. But certainly we can look at it again to clean it up.

Douglas Kellner: Well even that was a sort of bowdlerized version which was a big improvement so I'm not complaining I'm glad the legislature did it and if that's what they needed to do. But I still think that we as the professional administrators can still propose a more efficient drafting of the statute that would have clearer procedures and procedures that are the same statewide.

Alright so that was one. Bob you mentioned the revision to 9-211, I guess that came out of the report that the Election Operations did on the federal grant. And so I just want to mention for the public then that we're looking at how to revise that. But I think it's just a couple of words that are...

Kim Galvin: And just so you know that when that was raised kind of late in the process to me, I did try to get the report from Bob Warren and I am looking at it so those are continuing conversations.

Douglas Kellner: And I haven't commented on it yet either Kim so I need to work on it too because...

Kim Galvin: I wasn't really sure how it all worked together and I wanted to educate myself on that.

Douglas Kellner: I'm just saying it so people know we're looking at it and if anybody has an interest in it they'll contact us and let us know if they have other suggestions.

Anna Svizzero: Do you want the companion regulation to be similarly reviewed?

Douglas Kellner: Well now you're embarrassing me because I've been saying for almost 2 years now that I would draft revisions of that and

Anna Svizzero: It wasn't my intent but if we're touching it then...

Bob Brehm: Well those are two different things. We really need the legislature to agree if we're going to allow the use of automated tools because the statute specifically says manual audit. So I don't know how much time we want spend on a regulation to tinker with automated tool, we can do all the other write-ins you want but...

Anna Svizzero: I just didn't know what the board wanted to see. We can do the statute alone that's fine.

Douglas Kellner: And then the last item which I think we mentioned, but just to say it again is that there is a draft which some of the staff have prepared that would authorize electronic poll books and clean up some of the associated language on it and that's circulating around.

Okay thank you. Alright so next is Campaign Finance. Does anybody want to discuss any of the preliminary determinations? Alright so I move we adopt the 7 preliminary determinations as drafted by the Campaign Finance Unit.

Jim Walsh: Second

Douglas Kellner: Am I correct in reading this. We're adopting 7 and there are 2 drafts that are

Bill McCann: Well you have to vote on those as well.

Douglas Kellner: Okay so we're going to vote on all 9 then.

Bill McCann: There'll be 1, 2, 3, 4, 5, 6, 7, 8, 9, 11. There's 11 altogether.

Douglas Kellner: Well the bottom 2 I think we need to talk about very briefly.

Bill McCann: Okay that's fine, then there'll be the 9.

Douglas Kellner: Alright so we've voting on the preliminary determinations and the 2-tabled items. Alright. Those in favor say aye.

[chorus of ayes]

Opposed? Alright that's adopted. Alright.

Jim Walsh: So then we're going to go into Executive Session for the others.

Douglas Kellner: Well I would like to discuss these without using any names if we can do it that way. Just to,

Bill McCann: Well since I don't know what it entails, I feel a little uncomfortable in that.

Douglas Kellner: Why?

Bill McCann: Because I just don't know what the issues are.

Douglas Kellner: I wanted to have the unit either you or Cheryl explain what was done in assembling these reports to address some of the questions of like, how is it that NYPIRG comes up with a list of hundreds of over contributors and our list is down to half a dozen? And then also some of the comments on how we determine which ones to refer to the DA based on some of the phone calls that I had with staff people in the last 2 weeks.

Bill McCann: I can talk about it generally certainly.

Douglas Kellner: Yeah. I don't think we need to name any names at this point until we adopt the report.

Kim Galvin: There is a clear distinction by 2 lists being...

Bill McCann: Right no that's fine. Well in general the audit unit does an initial data dump where they take the data out of the database based on all the contribution schedules and then they go through and review them to determine, in the case of corporations whether in fact they are corporations and that would also entail going to the Department of State and other sources to determined whether in fact the corporations. Again, the data that we get off the reports we are solely, we have to rely on what's put in there, but it's put in there by the treasurers and so they don't always put in a complete name, etc. So the information is only partial. And so, or they could use an incorrect schedule or something to be put on the corporate schedule where it's not in fact a corporation. It

could be an LLC or some other type of entity. So staff spends a huge amount of time reviewing those to determine whether in fact they are corporations and then when it wines them out down to the list where it appears they would be corporations that have a potential of a contribution. Then a correspondence goes to those corporations and identifies the information has been reported by recipient committees to the board and asks them to review their records, and if we're correct they have to take steps to mitigate to see if refunds were appropriate and then to show us that they've done that mitigation. And so then the staff, if there's no response, there's a follow up letter that goes, and then there's any number of telephonic communications to reach out to the corporation to get them all to come into compliance. And that's a great deal of work.

And then ultimately, the group that you have before you, those are the group that again did not come into compliance and mitigate the issue of the over contribution. In the case of the legislative one, it's the same process where correspondence goes out to the appropriate people stating that based upon the information the Board has there appears to be an over contribution, we ask them to review their records and to contact us and let us know whether or not they agree with our assessment or to show us why in fact there's not an over contribution. Staff works with them. There's follow up correspondence and communications, and then ultimately for those that don't come into compliance, those are put before you.

So the audit unit is comprised of 4 folks. They spend a huge amount of time on it. So again, you can, is all I can say, hit a button and say look there appears to be this many over contributes but that doesn't tell you. You literally have to go and then sift through all the information to determine, in the case of corporations whether in fact they are corporations and then, our goal as we've stated many times, and as Commissioner Kellner has also stated, we're looking for compliance. And so that's our goal first and foremost. There are people who believe that we have sufficient resources, but again...

Douglas Kellner: Who are those people?

Bill McCann: Well I don't want to mention who they might be, but suffice it to say there are people...

Douglas Kellner: I haven't heard anybody ever say that we had sufficient resources. Even the Moreland Commission acknowledged

Kim Galvin: Even the budget added more people and more money.

Douglas Kellner: Go ahead.

Bill McCann: I don't want to, I have a parochial interest in these items but again I don't want to get personal even though other people have chosen to. But I will say that I think our staff does an exceptional job. Our goal is to get compliance and they work with

people because again, we're not out to get people, we're out to have people do their thing. So as a result of the process that's what you have before you.

Douglas Kellner: Alright so now let's just take specifically I'm looking at the confidential memorandum for the 2012 Legislative Election Cycle Over Contribution Review. Alright and we've got

Bill McCann: There'll be 3.

Douglas Kellner: So originally our data dump identified 84 committees and after reviewing all 84 of those, we found that 77 of them were in fact in compliance

Bill McCann: Well they came into compliance

Douglas Kellner: Either by refunding the money or by correcting typographical errors. Some committees would report 5000 when it was only a 500 dollar

Kim Galvin: Double entries

Bill McCann: Double entries, etc. yep

Douglas Kellner: So that was all reviewed?

Bill McCann: Um hum

Douglas Kellner: Alright. And so you've got these broken down, these 7 into 2 categories. We have 3 that we're recommending

Bill McCann: Correct there are 3 that would be recommended and the other 4 because the committee had determined that it dates them on a data parameter that those would not get referred.

Douglas Kellner: Well because it's too late under the statute of limitations.

Bill McCann: Correct

Douglas Kellner: ...for effective prosecution.

Bill McCann: Correct

Douglas Kellner: And alright then I don't think I have any, so the one comment is that the current statute gives us, let's just address the statutes of limitations issue because some people are going to ask about that. How come we get the report out so late that it's too late for effective prosecution? And I could start out by saying that the statute itself

has a very tight timetable because the statute of limitations is 2 years and the election reporting cycle is also 2 years and there is no effective way of reviewing over contributions until the election cycle is closed and the reports are received for that period. So that you're already 6 months after the close of the 2 year election cycle, and if the over contribution was taken at the beginning of the election cycle, then the 2 years has already lapsed before we have an effective way of identifying it.

Bill McCann: Right

Douglas Kellner: And so certainly one of the legislative reforms, if people are serious about following this is to change the statute of limitations.

Bill McCann: Or to have it start at the conclusion of the election cycle.

Douglas Kellner: At the latter of the conclusion of the election cycle or when they filed the last report.

Bob Brehm: It's a bigger issue for the 4-year cycle when we do that after the state the audit will do next year because it's a 4-year cycle. So a contribution in the first 2 years will be that much harder and even be impossible once we get to it. And one other thing we're looking at when you're talking about that subject is finally to have some money to bring the Campaign Finance System up to the current decade maybe, century. We are as we've said for a very long time, we are so limited not by the limit of staff which is an important thing, because we've only gotten a 4th auditor recently within the last year was the 4th one, maybe year and a half, it seems like only yesterday. So we're really running for most of this time with only 3 and we're running on a database system that is 20 some years old. So we're limited by the technology. So we've taken whatever steps we can with the technology we have and the resources we have to get this project moving and last year of course we did take an extraordinarily amount of time with the staff to answer as many requests from the Moreland Commission. So that was an awful lot of stop what you're doing and did that to a precedent. So hopefully going forward with improved technology and I think we still should consider recommending the statute change because it is always going to be tight for us.

Douglas Kellner: Alright. So did we actually vote on this yet?

Jim Walsh: No

Douglas Kellner: Alright so we're recommending the 3 be referred for prosecution, the other 4 will receive letters of admonition.

Bill McCann: Correct

Douglas Kellner: And I guess all of this becomes public after our vote.

Bill McCann: Well I think our procedure is that these other folks wouldn't be notified yet and we have, we wouldn't have the correspondence for the referrals done until probably the end of next week s

Douglas Kellner: So we would release it in 2 weeks.

Bill McCann: Yes, well because then you have to give people a chance to learn about it through the normal process.

Kim Galvin: That's a change in policy isn't it? That a D.A. referral would then be foible or releasable?

Douglas Kellner: No we've been releasing them. We release the list in the past.

Bill McCann: I don't know that it was, I don't know whether the actual time of the referral though. I think in the past we've had it where we've actually met with the D.A.

Bill McCann: We communicated with the D.A. we've set up meeting and done all that stuff so at least the process was...

Douglas Kellner: Alright so we'll do it that way. But you know certainly the whole point of the admonition is to make it public.

Bob Brehm: Its just going to take a little while to implement it, set the meetings and those kinds of things so the actually referral.

Douglas Kellner: So we're talking about 3 weeks?

Bob Brehm: A couple 3 weeks yeah.

Douglas Kellner: Alright. Those in favor say aye.

[chorus of ayes]

Opposed? Alright.

Now the next one is the Corporate Over Contribution Report. Now this is a little trickier because it's really first of all there are a lot of people that don't realize that there's a 5000-dollar limit. So, and unless a single treasurer receives 5000 dollars, the treasurer wouldn't know that the corporation is making an over contribution.

Bill McCann: Right they would have no obligation to refund the money so...

Douglas Kellner: Right. So the recipient is not, and if the corporation goes over the limit and they violated the law, although they may not have done that intentionally and if the treasurer isn't willing to give back the money, then they're going to get stuck on this list.

Bill McCann: Right and again the idea is seeking compliance and those folks that are on there are people that have just blown us off.

Douglas Kellner: Alright and so the original list that we came up with from our data dump was 368?

Bill McCann: Yeah it's a large number. So the data dump would take all the numbers, there'd be a huge amount and they wean them down and ascertain that this is the group that would have a potential violation.

Douglas Kellner: Alright

Bob Brehm: So the data dump would include every corporate contribution for the year

Bill McCann: Well everything that's been identified right.

Bob Brehm: Anything that was in a corporate schedule that was filed in the calendar year.

Bill McCann: Well they'll even, they'll also even look for potential corporation contributions on other schedules based upon how they're phrased in the name of the entity. So its actually more than just schedule B.

Douglas Kellner: Okay.

Bob Brehm: And that's what gleans it to that bundle.

Douglas Kellner: And what is it, all but, most of them are under, well they are relatively few that have over contributions

Bill McCann: That are significant.

Douglas Kellner: There's only one that has an over contribution of 10,755 dollars and then there are 3 or 4 that have 3 of them that are over 5000. Alright but that, the first page of the report is actually interesting to the public. I'm going to just read it if that's alright. So it's,

The statutory aggregate limit for corporate political contributions is 5000 dollars in a calendar year under election law 14-116. Entities that were reported as corporate

contributors and that potentially made over contributions in 2012 numbered 368. After a review of each entity, 71 were review from the audit, were removed from the audit because staff determined that they were not corporations and therefore not subject to that limit. As to the remaining 297, a letter was sent to each corporation telling them they had been reported as a corporate contributor and appeared to have over contributed. The specific contributions attributed to them were outlined and they were asked to contact our office if they disagreed with the facts as given.

Each corporation was given the opportunity to provide us with a full explanation and documentation to support their position. Corporations that did not respond to the initial letter were sent a second letter. Additionally, 2 of 3 follow up telephone calls were made to these corporations to attempt to make contact or to assist any corporation that had contacted us.

As a result of these steps and discussion with entities, another 96 were removed from the audit because it was established that they were not corporations and therefore not subject to the limit or that there were reporting errors. Once first time offenders were identified as actual over contributors, staff employed the process previously approved by the Board to allow corporations to bring themselves into compliance by obtaining refunds to bring themselves within the limit or making good faith attempts to do so. Full refunds were obtained by 85 corporations, partial refunds were obtained or good faith attempt to obtain refunds was made by 94 corporations. Overall the compliance rate for this audit is 89.05%.

The remaining 22 corporations are categorized as noncompliant. Of them 7 are partial responders. These corporations contacted us upon receipt of our letter but have done nothing to resolve the over contribution. 13 are non-responders. These corporations never responded to us in any manner. Additionally 2 were unable to be located. 9 of these corporations also over contributed in at least one previous year since 2006 and the applicable years noted after the corporate name.

Alright. It was determined in the weekly enforcement meeting with the co-directors that April 1, 2014 would be used as a date parameter for statute of limitations purposes. Two of the noncompliant corporations would have statute of limitations which falls before April 1, 2014. The committee determined that these two corporations would not be referred but would receive admonishment letters.

So, I move that we approve the report.

Paul Collins: Commission I think there's a typo. The date of April 1, 2014 probably should be April 1, 2012

Douglas Kellner: 2012 right and April 1, 2014 would be the date that the statute of limitations expires. Thank you for clarify that Paul.

Bill McCann: The intent was the same.

Jim Walsh: Second

Douglas Kellner: Alright. So those in favor say aye.

[chorus of ayes]

Opposed? Now in the past, at least since I have become a Commissioner, I'm not aware that the D.A. has actually prosecuted any over contributors. Is there anything that we can do that would assist the D.A.'s in actually bringing these proceedings? For example, giving them a template?

Bob Brehm: One thing at the last meeting you recommended that we look at the packaging. In the past we've sent the lists of the over contributors and a letter. That simply said, here's the list. We talked to the staff about putting together memos. What we generally do is give them a background, what we specifically do with regard to each of these individuals and the actual date of file. So to send to the D.A. as much information as we have that's relevant to their review, and to also modify the letter to the D.A. to indicate that we remain available should there be any specific information that they need from us, please identify because they're the ones that have to make the prosecution. If they think that something we can do to answer any outstanding question, to please contact us from that perspective.

Douglas Kellner: Am I correct that the form of the criminal complaint for this type of prosecution is very short?

Kim Galvin: Well it would seem to be. But it wouldn't be...

Douglas Kellner: So should we give them the form? I mean there are,

Kim Galvin: I think that's insulting actually.

Paul Collins: Commissioner why don't we do it this way.

Gregory Peterson: I think what we should be doing, what has been, my understanding what is being done is that the District Attorney now has a package of not only the list but the back up information as well from which they can make their own determination as to what they're going to do with the particular complaint. As I understand that this is going out to the District Attorney's throughout the state depending upon what county the offense has taken place in. So, that I think without packaging it up and putting a ribbon around it, I think it answers the questions. I don't believe that we have to do more than that. It's not our job to write the complaint for them. And if I go through, going through

the list here I see 1, 2, 3 that are high, they're up into 5 figures, most of these you're talking about anywhere from 850 dollars to about 1200 bucks. So you're not talking about you know Al Capone over here. So we do what we do and let the District Attorney make their determination on whatever basis they choose. It's a fatter package than what we had been giving them before and I think at this juncture, at that juncture we at least have done our job and let the enforcement authorities take over from that point.

Kim Galvin: Right because I would think that an enforcement authority such as a District Attorney's Office for 112 dollars may send a letter urging the corporation to come into compliance which would have a little more heft to it than a letter from us or of the like and also that the only other thing that I might suggest that the collective staff do, is if we don't hear anything from the District Attorney's in 2 or 3 weeks, to give them a call and ask them if they have a position on the matter.

Douglas Kellner: And volunteer to help them if they want.

Kim Galvin: Right and volunteer if they need additional information.

Paul Collins: Commissioner the package letter that I think we're using at least what I proposed also indicates to the District Attorney that if further investigation is needed, the State Police are obligated to assist is and if he has specific issues that he wants us to have them look at, we'd be pleased to do so. He or she, excuse me, he or she. Evelyn would die to hear me say that.

Kim Galvin: She probably just did.

Douglas Kellner: Okay did we vote on this yet? Alright. Then I think the only thing remaining is to set the date of the next meeting. We talked about March 11th. We changed it to Tuesday.

Bob Brehm: Oh you're right I did say Tuesday.

Douglas Kellner: Good then motion to adjourn?

Jim Walsh: So moved

Douglas Kellner: We stand adjourned. Thank you.

