

06.27.2007 Elections Raw Captioning Transcript

I call the meeting to order.

My name is Douglas Kellner, co-chair of the board.

We have present Commissioner Helena Donohue and Commissioner Evelyn Nekela.

Unfortunately, Neil Kelleher, co-chair is in the hospital today and he will not be able to join us.

I'd ask that everyone that our staff first identify themselves and introduce themselves and then we'll ask our guests to introduce themselves x I'm Peter Kescinksi.

>> Todd Valentine.

Allison.

>> Anna.

George Stanton.

>> Lee Daghlian.

Liz Hogan.

Bob brown.

>> Our guest.

Debra.

>> And if you tell us where you're from, I think that would be helpful.

>> Columbia County.

>> New York state.

>> Citizens New York City.

>> I'm Jeff the working for Mea and India for liberty.

>> VIN vent from voting project.

>> Dennis from arise.

>> Neil.

>> Andy Melvik.

>> Saratoga County.

>> Jim piper.

>> Division of labor.

>> Jim division of labor.

>> And Steve rich land general counsel for global action.

>> Thank you all.

And you're welcome and I'm glad you were able to come today.

So the first item on the agenda is the Board of Canvassers that we have to certify the election results for the special election for the 65th assembly district where Mika Kellner, no relation, was elected to the assembly.

>> Everyone.

Those in favor of approving the certification say aye.

>> Aye.

Snoo.

>> DOUGLAS KELLNER: Okay.

so that concludes the business of the Board of Canvassers.

And meeting of the commissioners of the state board of elections.

The first item is the approval of the minutes of May 2nd as revised and the minutes of May 30th.

>> No, fine.

>> Those in favor say aye.

>> Aye.

>> Opposed?

The minutes are approved.

We'll proceed with the reports of our units.

For the legal unit, Todd Valentine.

We did them both.

>> Oh, I'm sorry.

I didn't realize we did them both.

>> Todd?

>> We continue 0 our weekly updates with the Justice Department and Liz filling in to assist with informing the Justice Department of the status and week to week basis.

We have another call scheduled tomorrow.

And I think we're taking next week off for some reason.

But that goes well.

Well, as well as updates go.

Our focus -- we have a slight shift in our focus now because a number of pieces of legislation have passed that we're preparing a summary of the presidential primary or the winter primary.

Access bill which sets forth the plans for access for delegates in the national convention.

Traditionally we put a summary of that together for the two plans people can see what they are because they're all the elements of the plan are not necessarily contained in the legislation.

It's usually a mix of party rules and statute and we put that together, part of that is done, Deirdre will be assisting me on that.

And she's also assisting, we're putting together the procedure act statements for both the 62.10.19 numbers which are the arrow, those should be going for publication I think this week and the other 2 sieve .10 regulations I'm not sure of the status of the draft as it is today but she's assisting working on that snoo Todd, on the 62 t .10 regulations they have not been published yet so the public comment time.

>> Not yet.

I know she has other things to do.

>> So they're not ready to be put out in July?

>> The regulations?

>> yeah.

>> FEMALE SPEAKER: For whent.

>> For comment.

It might be July.

I -- I guess I have to defer to Deirdre on that because she was doing the first draft on that.

>> How does it look Deirdre?

>> I just start the second one.

I just finished the first one.

The second is 50 pages in and of itself, I don't think I can make any tremendous predictions.

I'll definitely do my best.

But it's a pretty thick document and Gore requires a lot.

So every time I write a piece, I have to send it over to them.

They mark it up, it comings back to me.

So this one was just a --

>> If there were time pressure on that, but there isn't a lot of time pressure.

And of course the drafts are on our website, right?

>> Yes.

So they've --

>> TODD VALENTINE: We have been receiving comments.

We're documenting those, cataloging those, Bob is assisting with that because we funnel our comments through the public information office and we keep a record of those.

There's stuff available for what we've gotten, I haven't seen a list in a while.

But --

>> I haven't been here since the last meeting so there are a few extras we've got.

>> So we're tracking those.

>> Okay.

>> And obviously we're preparing for whatever petition filing there is to be done in the coming months.

You know, we have petition filing period after the schedule change that's been pushed back.

>> And is it Bruenner versus Mc Tighe?

What's the case dealing with the -- pardon?

>> Who?

Snoo I'm -- we're talking about the --

>> Bennett, yes.

>> What's the name of the case?

>> Bennett versus -- we were the lead plaintiff, I believe, Bennett versus the state Board of Education.

A case was brought.

I didn't think to mention it because it's being withdrawn.

>> O well that's fine too.

>> Yeah, that's all right.

>> DOUGLAS KELLNER: Well why don't you just do a one --

>> Briefly on that, we were named in a federal lawsuit challenging the requirement that a witness to a designating petition being an enrolled member of the party. Order to show cause was brought.

At the 11th hour the plaintiff withdrew their request for the order to show cause and request for preliminary injunction and they've informed us and I recently got another e-mail today informing certainly the County attorney's office had been interested in this because they were also named stating that he would be withdrawing the case shortly, you know, within a week or two.

I don't know what the delay is but that's what he said.

And there was another case -- this is actually the same legal incident is being brought in New York City the first party is Mazlo versus probably the city board wurdz.

>> Aaron Mazlo.

>> We have Steve Richmond here.

>> The plaintiff is Lori Mazlo.

>> Okay.

that's Lori, his wife.

>> Yeah.

And in that case, that had -- summary judgment motion on that were perfected in May and are before the court now although I understand from city corporations counsel's office that the judge given the nature of the case given to party rights the judge is ib cliend to wait to rule on the summary judgment motion until the Supreme Court has had a chance to rule in the Lopez Torres judicial convention case which also has a party rights aspect to it.

I don't think they're related but that's what he informed the parties and that's what the corporation's counsel's office toll me.

And I talked with teef and confirmed that.

So that issue is out there.

I don't see it being decided before this petition period so it's kind of moot at this point at least for this cycle.

>> Lopez Torres is going to be heard in the Supreme Court in October?

>> That's what it was tentatively schedules for.

We haven't received the final scheduling for that.

It's suppose tobd during the first week which is their first week of session we're not sure which day.

>> I understand it's going to be standing room only.

I don't know.

>> TODD VALENTINE: I assume they're all standing room only especially the first week of the session.

It obviously is a public proceeding because I'd gotten your note in response to that.

I -- there are limited -- I don't have all the details on who can go and who can be there.

They are very strict with their limitations as to who can actually appear and in the room itself and then the public galleries and space can be set aside.

So I think we'd have to work with our washington counsel to establish what space we have because we do have a large number of parties who are interested.

So, I'm not -- I don't want to become the gatekeeper on giving out tickets to that.

>> No, no.

>> I only asked you for me.

>> TODD VALENTINE: I understand.  
And Stanley has expressed interest.  
As a number of other people have.  
All I can tell you safely is I will obviously not be arguing the case.  
>> FEMALE SPEAKER: Do you have to appear though, Todd?  
New York state.  
>> No, we already have representation there.  
The AG's office intends to argue.  
So our places at the table are full.  
That much I can tell you.  
But space to be in the gallery for the argument, I'm not sure how much we'll have  
and I'll see what I can find out.

>> FEMALE SPEAKER: So the Attorney General's office is going to argue the case for  
us?

>> TODD VALENTINE: Well no.  
>> FEMALE SPEAKER: For New York state.  
>> TODD VALENTINE: They were a separate party so they tend to mic their own  
argument.

>> DOUGLAS KELLNER: We need to retain special counsel to do that.  
>> FEMALE SPEAKER: Oh, that's right.  
What's his name.  
>> Ted Olson.  
>> FEMALE SPEAKER: But isn't he running Guiliani's campaign right now?  
>> That's one of the reasons we thought getting someone to do this --  
>> FEMALE SPEAKER: At least he's running the New York state campaign of Guiliani.  
So I hope he goes to the Supreme Court for us that day.

>> TODD VALENTINE: Well, I fully expect to.  
That's kind of why we've got him.  
So --  
>> He's an excellent attorney, yes.

>> TODD VALENTINE: So far our dealings with his office have been very good.  
>> You're satisfied.  
>> TODD VALENTINE: To date, yes.  
Satisfied with the work -- we've only filed a brief which is extensive and we've  
reviewed it and copies have been circulated here so people were able to put in their  
comments.  
>> And he is the former solicitor general and has substantial experience.  
>> TODD VALENTINE: We have confidence in his work.

>> DOUGLAS KELLNER: I wanted to thank you and Liz for the work you did do on the  
Bennett case before it was withdrawn.  
I know Liz spent two days working on briefs.

>> TODD VALENTINE: It's a bit of a steep learning curve.  
She has a litigation background.  
Not particularly civil litigation.  
As I said, civil litigation in the election field is always a lot different because  
it's really fast.  
>> Yeah.  
It moves fast.  
>> TODD VALENTINE: And you have to think quickly.  
>> DOUGLAS KELLNER: Anything.  
>> TODD VALENTINE: Todd no.

>> DOUGLAS KELLNER: Thank you very much.  
So next report is from Ann SVIZZERO.  
>> I did provide the board with an update on what's been happening.  
I would like to elaborate on a couple of those points and answer any questions that

you have.

On the third bullet, the eval committee did complete the site visits of proposers to RFP and subcontractors and I'd like to thank Allison and Bob, also John O Grady here from the city board and you're nice tech team and a young man on the office of technology.

The travel alone for this trip was incredible.

They've been to California, Nebraska, Colorado and points in between.

Alabama.

And they have done an excellent job of reviewing the documentation of visiting those sites and participating in the oral presentations that were made by those vendors. Unfortunately, the report for that has to be delayed for the board because of a clerical error in the document that was provided to the proposers relating to how they articulated costs.

So OGS has to send them a revised document and get new information from them.

So we don't have that for the board today.

However, Allison did complete the report, left our conference early.

worked all weekend on it and was prepared to make that a report today so I want to thank her for the extra work she put into it.

So as soon as OGS gets the information back from the vendors, amended information that we can add that to the report and provide it to the board and make a recommendation for the team at that time.

Allison served as the team leader for that whole trip and all this process, so, if you have questions, I'm sure we could answer them.

>> FEMALE SPEAKER: Do we want to ask questions now or when you're finished?

>> DOUGLAS KELLNER: I don't don't you two through.

>> FEMALE SPEAKER: Yeah.

You want to briefly go through your report and then we'll talk snoop are you finished.

>> ANNA SVIZZERO: On the contract conference calls I'd like to thank Steve Richmond who is here from the city board and the other parties I did find an opportunity to thank them up at the conference for their participation in those conference calls relating to the contract for voting systems.

And I can update you on the outstanding issues under old business if that's the pleasure of the board.

>> DOUGLAS KELLNER: We will come back to this -- to the contract.

Allison, do you want to say anything about the status of checking the applications for certification for completion?

>> Allison: I don't have anything new to report.

I noticed that Anna put in your board packets a copy of that sheet that you asked if it is confidential or not.

It is not confidential.

That's the current status of course like we said before.

We need new copies of TDPs, we still need more updated litigation information.

There's still money outstanding.

So nothing new since last time.

>> DOUGLAS KELLNER: One issue that I wanted to raise with respect to that is just hosting the quarterly affidavits that the vendors have to update us on political contributions that apparently they haven't been posted since the initial application and it's my view that those should be posted.

It defeats the purpose if they're not actually posted.

>> FEMALE SPEAKER: I thought they always were.

>> ANNA SVIZZERO: Do you want them all posted or by new quarters?

All of them?

>> I guess we posted them by quarter in the past.

>> ANNA SVIZZERO: But you want to see them all all the time?

>> DOUGLAS KELLNER: Yes.

Our people should be able to find them.

Just open up a folder and if people want to go through a vendor's filings, they should be able to.

>> ANNA SVIZZERO: We'll work with Lee, they've been scanned and we'll export them to Lee and he can get them to the website.

>> DOUGLAS KELLNER: And I'll raise in old business the issue on the debolts filings. Any other questions for election operations?

>> FEMALE SPEAKER: The vendors were all up at the conference, Anna?

>> Yes?

>> FEMALE SPEAKER: Anything new or different to say.

>> ANNA SVIZZERO: Nothing new to say, a few tweaks to the systems we've seen. The dominion system we're hoping will be up for certification was there and it had modifications done since the last time we saw it but they haven't officially brought it in to make that presentation or made application yet.

>> FEMALE SPEAKER: I'm sorry I missed the conference but due to my granddaughter's engagement and my brother's hospitalization, I got so tied up, I just couldn't get away.

So good thing and a bad thing.

That's life.

>> DOUGLAS KELLNER: All right.

We'll move to Lee Daghljan on public information.

>> LEE DAGHLIAN: Thank you.

The only thing I wish to report here is that the contract for the training program with SOE has been signed and returned and it's at the AG's office and OAC for review.

And that I'm being told by OGS should take two to three weeks for that to happen.

And then we can -- when that happens, we can start the program.

And the real work s other than that.

The general business of NVRA and the public information office is normal.

>> Did NVRA report go to the ASC?

>> LEE DAGHLIAN: Yeah.

>> FEMALE SPEAKER: Can we get a copy of that?

I didn't see it.

>> LEE DAGHLIAN: It was all done electronically or I can get you a hard copy.

>> FEMALE SPEAKER: I'm electronically ignorant.

I need to see paper.

No rush but I'd like to see it.

>> We'll turn to Elizabeth Hogan on campaign finance.

>> ELIZABETH HOGAN: The series of training seminars is finished as of today.

The last one happened this morning.

They've been very successful.

We've got wonderful feedback from the counties that that it was presented in and they were very complementary of the staff and the way he this presented the training sessions.

As to local candidate filings, we submitted a draft memo at the conference to the County boards asking for information from them regarding local candidates.

We have -- bill actually drafted that and we had a series of responses from certain of the counties and questions and we at the conference scdz them to submit further and we'll submit in a finalized version and see if we can collect a significant number we're hoping of local candidates through that process.

The 05 review of overcontributions by corporations is winding down.

We expect the report to be finished in I believe -- I don't have a date but I believe it to be mid-July.

At which point we'll review the report and make a recommendation to the board regarding the status of the overcontributors.

Now, I do believe Commissioner Kellner at the last meeting regarding the letter that is sent to corporations and I am at your direction working on a letter revised letter which I will then present to the board for review.

>> DOUGLAS KELLNER: Of course you'll work with Bill Mc.

>> ANNA SVIZZERO: Stanley and Peter.

>> Of course, absolutely.

We're implementing a new telephone system on campaign finance going to be in place July 9th and it's been a long process and we feel the system as exists will really allow our callers to protest more efficiently and more effectively and it will enable the information that we require to be gathered in a very efficient way.

Bill worked hard on that so I'd like to thank him for that also.

>> DOUGLAS KELLNER: Can you summarize what's going to be different about it?

>> Right now when you call our 800 number, it goes to the operator who ferrets the calls out to whoever might be available.

This is an operator system where the analysts will be plugged into the system and on the most idle agent process when people pick a selection they'll be able to go right to one of the operators who cues up calls so it's not a haphazard way of all the phones are ringing and whose call is it, et cetera.

We get peak filings systems, it gets hectic, the phones are through the roof.

This will allow a more seamless process and we believe it will be far more efficient.

And so we'll look for the revisions to the letter on the excess corporate contributions and it's still my intention when the report is ready then to go forward with the proposal that the board bring and endorsement action against the excess contributors in order to get a court order and I just want to keep that on the radar screen.

It's premature to call for a vote on it now.

But I do think that we should take affirmative enforcement act action.

>> FEMALE SPEAKER: We're also in an RFP for process serving function and I think that would need to be scheduled this week, Bill.

Tomorrow.

So we'll see where that goes.

We're also meeting with the HAVA administrative complaint procedure, we're working with them to develop an internal process for handling those complaints and also for the forms that we need to effectuate those claims.

So that's about it.

>> DOUGLAS KELLNER: I think there was one other issue that Bill mentioned yesterday at the election commissioners association conference which is the -- that the state board -- if there's no agreement on the campaign finance bill this month, that the state board would then take up rewriting the regulation to eliminate the local filing requirements to the extent that we have authority under the statute to do that.

>> It was an intermediate step, a step concerning as we saw the administrativish the long and short of it would be intermediate step to allow -- God bless you -- to allow both places to have this filing here suffice for the local filing.

But anyone who had a file locally would still continue to file?

>> DOUGLAS KELLNER: We wouldn't change the substantive rule?

Don't we have authority that we could require people to file here?

>> We could.

But it's a question of the thousands of additional filers we would have to file administratively and we're not in a position to do that.

>> DOUGLAS KELLNER: Well I'd like you to keep that on the radar screen and you know we could be optimistic that maybe there will be agreement in the next month.

But, if there isn't, I think we ought to start the process to at least eliminate the duplicate filing requirement.

All right.

So that's it for campaign finance?

All right.

George Stanton for ITU.

>> GEORGE STANTON: Yes, we're trying to wind up the statewide voter registration

database right now.

Right now the pilots went very well obviously.

The pilot is over.

We're in the process of bringing on the remaining counties.

We've received the final migration data from all of the independent counties of course which were on for the pilot.

All of the 49NTS counties I think three of the 4ES&S counties.

We're waiting for a date from New York City which they were supposed to get to me Friday but I haven't heard yet when they were going to do their final data migration cut and go live on the system.

Right now we have finished our compliance testing on all of the vendors are compliant and I think I need board action still on the two that I gave you the memos in your packet for the ES&S software.

We tested them and we also tested the Hamer easy access software which was -- is the Monroe County system.

So I need board approval to go ahead and accept those as compliant.

>> Has the steering committee reviewed it?

So there's no problems?

All right.

Those in favor of giving board approval for the ES&S and Hamer compliebs statements all say aye.

>> Aye.

>> Opposed?

All right.

You have been given approval.

>> Okay.

so I'm going to -- I'm anticipating with the possible exception of New York City that we should have most everybody on board by the end of next month.

We're also in the process, as you know, the saber project went through June.

We've gotten a change order from them to extend that they thought we would need to keep them around until the end of August.

The steering committee actually decided that it would be a good idea to extend it through September for a couple of reasons.

It gives us time to make sure everything is smoothed out, working, stabilized, working well.

It also gives us the support which kicks in after the project concludes.

We have a year's support and maintenance which we signed up for and that would take us through the primary next year which would be definitely a good thing.

So we're just gathering information on that now.

Plus some other enhancements that the steering committee has talked about doing.

>> DOUGLAS KELLNER: George, how is that extension going to affect the budget for --

>> GEORGE STANTON: The extension they asked for for the two months was about \$190,000.

We asked them for a third month but also I pointed out to them that there's three key people.

One of the key people may not be needed for that third month so I'm guessing it's going to be over \$200,000 but still way within our budget.

So -- some of the other things that we've asked them to give us prices on some enhancements.

I don't know what they're going to be -- we'll have a definite recommendation for the next board meeting.

>> DOUGLAS KELLNER: All right.

And then the issues with New York City, which I know we briefly discussed at the election commissioners conference yesterday, is the state going to incur additional expense because of the city delay?

>> GEORGE STANTON: Well we are incurring these expenses for this extension which we originally thought our main problem was the ES&S situation that you know about. But that's been fairly resolved ES&S, two counties are going live next week and followed by Westchester and Nassau.

So it's looking right now like New York City may be the last bunch on.

>> DOUGLAS KELLNER: All right.  
But specifically is there a marginal cost that the state is incurring because of the New York City delay?

>> GEORGE STANTON: Yes.

You know, I mean I can't attribute it all to New York City but this whole extension is because of New York City and ES and S.

>> DOUGLAS KELLNER: AS I started to discuss at lunch yesterday, I think that we should provide specifics and particulars with respect to that cost because I believe the city has legitimate considerations that they're making on why they want to delay the hookup.

But it may be that the costs to the state are greater than what the costs would be to the city if the city kept to the timetable and I think that that needs to be articulated and negotiated out.

And I'm a little disappointed that the city thought that they were in the position to just unilaterally say we're going to delay the hookup without discussing that with the steering committee.

It's not the city's place to say we're going to inno the state regulation on this even though they may have some legitimate concerns or considerations.

Certainly, as you sclaibd yesterday, there are ways city could be in compliance without unduly interfering with their petition checking process which I understand is the main reason and Steve, I'll let you speak up if you want.

But, if it's going to cost the state an extra -- and I'm just throwing out a number -- \$75,000, tanned would have only cost the city \$25,000 to do a work around, then this was the wrong decision, you know, for the taxpayers collectively to do it this way.

And I'd like to see the two get together and work this out rather than just roll over you know that the state is going to pick up this cost because the city has issues.

>> GEORGE STANTON: I have a scheduled phone conference with Steve Ferguson this afternoon at 2:00 so I'll be leaving shortly.

But one of the things we'll be looking for is an actual date when we're going to get their migration data and when they feel they can do the cutover.

So --

>> DOUGLAS KELLNER: George, I would ask you -- and I know that you don't like to be the heavy.

So you can blame it on the commissioners if the others support me on this.

>> I do.

>> DOUGLAS KELLNER: That you should talk to Ferguson and say look, here's what the cost is to the s by every week of your delay and the hookup.

And if in fact the cost to the state is less than it would be for the city to work around their issues and the roll over, then I don't have a problem with it.

But the fact that they didn't talk it through with you bothers me a great deal and there's certainly remedies that we at the state level have if we think the constituent I is unduly imposing on us just as we took a hard line with some of the ES&S counties when we had a problem with that.

>> GEORGE STANTON: I'm I'm a little concerned because we put it off ones because of the special election and now we're putting it off because of the petitions coming in and now what's next?

>> DOUGLAS KELLNER: I agree.

But the major thing is that all of these issues that the city raises which are legitimate issues that they're raising have work arounds and the question is are we doing the most cost effective work arn on this?

Or is it just -- I'm concerned that the state not be reviewed as an unlimited resource to pick up the cost of these issues?

>> FEMALE SPEAKER: We just can't be taking all these financial problems because they will become financial problems for us.

>> GEORGE STANTON: I'm sure Steve will take that back with him.

>> HELENA DONOHUE: I think you should talk when you're trawking to new New York city, you should mention to them too.

>> GEORGE STANTON: I will.  
I'll talk to Steve Ferguson.  
>> HELENA DONOHUE: And you should mention it to Steve Ferguson.  
I understand the city's problems.  
I'm from book Lynn, I know, I know.  
>> GEORGE STANTON: He's like me kind of caught in the middle.

>> DOUGLAS KELLNER: I think --  
>> HELENA DONOHUE: We're just saying give him the information, not terrible thought.  
We're saying let him know.  
>> DOUGLAS KELLNER: We're giving you a little authority now to press them on this.  
>> GEORGE STANTON: That's all I need.  
>> DOUGLAS KELLNER: Steve Richmond is there anything you want to say, I know you're familiar with the issue.  
>> Given the delay that occurred, do it at the time that litigation on significant public office's petitions and the potential to have two different systems of information records in place and be used creates too much problems and confusion for all of us.  
So therefore, the board's position is we would provide that after the conclusion of the petition review process which would still be at least a month in advance of the primaries and if the understanding that the city will have they need about a week to do it.  
Complete it, produce the poll ready for the primary on the 18th.

>> DOUGLAS KELLNER: George, does that proposal add cost to the state?  
Because of the delay?

>> GEORGE STANTON: Oh, obviously we're going to be going into August and probably September to get any problems that New York City might have worked out.  
They're not just starting to send us data.  
They're at the same time implementing an entirely new system down there and I'm not sure how much testing has been done on the hardware and all that kind of thing because the hardware was only put in two weeks ago.  
So they run into some issues that they may need help with, yes.  
So I'm -- that's the reason that the steering committee, one of the reasons the steering committee decided it would probably be good to keep saber on through September just to make sure everything is working smoothly, all the problems have been solved.  
So yeah, I would say it's adding that extra month of saber's time if nothing else.

>> DOUGLAS KELLNER: Well, I just ask you to raise this with Steve and make sure that the state steering committee is satisfied that the city's proposal makes overall sense for the whole state.  
And is not just a designed for the convenience of the city itself.

>> GEORGE STANTON: The only other thing I had and I'm not sure if this requires board action or not but I think we did it for the NTS contract -- the HamerEZ vote contract for Monroe County is being finalized by OSC and I don't know if Stanley and Peter need board sign-off to do the final execution of that contract or not.  
I know we did it for NTS, but --  
>> DOUGLAS KELLNER: Well if we don't have it in front of us and it's not in the packets, George, I'm going to say --  
>> GEORGE STANTON: This is a contract we already did and the committee has seen it obviously.  
But I don't know if they need to sign-off for them to sign the contract.  
>> I think we did.  
I thought we did that already.

>> GEORGE STANTON: You gave the approval for us to go ahead and negotiate the contract for \$60,000.  
>> Okay.  
well --  
>> This is just for them to sign the final contract.

>> FEMALE SPEAKER: I don't see any problem with that.

>> DOUGLAS KELLNER: Either we did it or we didn't.  
But it's not before us today.

And George, we've warned you before --

>> GEORGE STANTON: This just came to me from OGS.  
They just -- you know.  
I didn't have it in time to put it in the packet.

>> DOUGLAS KELLNER: Okay.  
I don't think there's any need for action today.  
Anything else on your end.

>> GEORGE STANTON: No.

>> DOUGLAS KELLNER: I had just two things that I want to follow up with.  
One is the flurry of e-mails -- I shouldn't say flurry, but we had some  
correspondence and I appreciate your prompt response at that time about the security  
issues of the voter registration databases.

And I think that you said you looked into this and you were reasonably comfortable  
with the security of the state's system and that that was being addressed.  
One of the questions I raised though is in the state's supervisory capacity, should  
we be doing anything with respect to the counties and their systems?

Either to send out just a e-mail alert to the information officers to explain what  
happened in the -- I forget what state it was.

>> Florida.

>> DOUGLAS KELLNER: With that database and to remind the local administrators of  
their responsibilities to stay current on the security?

>> GEORGE STANTON: Yeah, I mean that's obviously a very good idea.

One of the things that you're probably going to get -- I haven't had a chance to  
brooch this with the steering committee yet but we will be talking about it is --  
we've talked about it downstairs and our recommendation will probably be to hire  
someone -- an outside foirm to do a vulnerability study on the whole network just to  
make sure that we haven't missed something and that would include our internal  
network, the voter network, the whole 9 miles.

>> DOUGLAS KELLNER: All right.

I'm specifically asking that we do an advisory to the counties just sort of a  
reminder because that is part of the job of the state board is to -- is to -- and  
especially on these technical things just to remind the counties of their  
responsibilities.

And I would ask that --

>> GEORGE STANTON: We can do that in general.

But I think a vulnerability study should come up with specific things to point out  
to the coibts.

They would look at not only our system but every connection to our system.

>> DOUGLAS KELLNER: I'm just reminding you that this is on my little checklist each  
month until I feel like we're on top of it and I'd like to just ask you to keep that  
on your radar screen.

>> GEORGE STANTON: Sure will.

That's always on our radar screen.

>> DOUGLAS KELLNER: Okay.

and then the other on my little checklist is are we making any progress or movement  
in looking at the campaign finance filing system so that people can file from it  
without using windows?

>> GEORGE STANTON: We haven't done anything on it.

We have started -- we started talking as a steering committee about having Gartner  
do some of the up front analysis for it.

I've had under our current contract I think OGS has some resistance to that simply  
because of the wording of the contract and they have -- HAVA being specifically for

HAVA0 I'm not sure if there's a workaround for that or not.  
But we haven't aggressively started looking at the system yet.  
>> DOUGLAS KELLNER: So this is another one I'll ask you about next time as well?  
>> GEORGE STANTON: Fair enough.  
>> DOUGLAS KELLNER: Thank you.  
All right.  
Then so that concludes the reports.  
I have the following items that -- to discuss as agenda items.  
One is to discuss the HAVA extension legislation.  
The second is to talk about the excess contribution by die bold and the issues relating to the affidavits of vendors who are seeking certification.  
And then we have the -- and then the third item for old business would be the review of the contract issues that OGS has raised that are still outstanding on the voting machine procurement contract.  
And then the last item of old business would be to discuss again our undervote options and what we're doing with that and then we have the one new business issue which is that OGS has raised with respect to the modification of the RFP for the independent -- independent testing authority for the voting machines, any other issues that anybody wants to raise.  
>> FEMALE SPEAKER: I only had two and you took them both already.  
>> Yeah, I do.  
I've discussed this with you and it keeps getting put off and on six positions that were supposed to be and I think we've got to move on it.  
It's been recommended and that's six out of about 21, to my understanding.  
So, if we want to beef up the enforcement part, which is what we set out to do, and it was the direction of the legislature and the Governor, I don't know what's holding it up.  
>> DOUGLAS KELLNER: Liz, do you want to summarize what the issues are right now? why we don't have it ready today?  
>> ELIZABETH HOGAN: I know of no specific time frame we're working on to get it done by.  
I actually approached Peter about it last Thursday and it was definitely something I was working on and I'd be able to resolve it.  
So relying on that, I'm ready to proceed probably within the next couple weeks to have that finalized.  
>> FEMALE SPEAKER: Well my commission on this is in some respects fairly personal and that's because I have to go in for surgery and I won't be available.  
And that's why I asked Doug if the importance of having this meeting because it's been a very difficult week for me.  
And the importance was that we were going to vote to establish these six positions.  
And then I did get a message from Doug last night on my answering machine that this wasn't going to happen.  
But I don't know.  
I just -- I'm very disappointed that it's not done.  
I don't really see what the big problem is.  
Maybe I'm not looking in the right direction.  
>> ELIZABETH HOGAN: Well it isn't a big problem.  
What happened when -- subsequent to my coming in which was about five weeks ago, I did receive the document that Stanley and I think Peter had asked Bill to draft regarding what would we be looking for to bring on new positions.  
And so sometime about a month ago I got the document and I have looked at it and I have some issues and actually, I've you know briefly talked to Stanley and I think Stanley talked to Peter and Bill about that there were just some issues that had to be resolved regarding duties and responsibilities.  
And that's what I'm looking at.  
And I think within the next week or so that should be you know ready for review.  
>> FEMALE SPEAKER: Well, I guess the wording probably would have to come around to all of us.  
But is this another case that whatever is decided on that if we don't have -- I

mean, we don't know where Neil is in the health situation right now.

>> Right.

He's in the hospital.

>> FEMALE SPEAKER: And I know that I'll be in rehab for a while.

>> FEMALE SPEAKER: Maybe we can meet by you.

>> I don't know what I'm going to run into it.

>> Of course you don't know.

>> FEMALE SPEAKER: But is there anyway that we could give the authority once the wording is okay with both sides that Peter and Stanley could execute this or?

>> DOUGLAS KELLNER: Yes, I think we can do that.

The most important thing is that once they -- if there's a name, does this have to go through the security investigation process?

The N2 position has to go through the investigation process.

So that's really the first step to get that going.

That doesn't need board action.

>> MALE SPEAKER: Notwithstanding what your recollection is last week, we did have this out there last board meeting and we're concerned that is still sitting.

Our feeling was -- if I could speak, I think we thought putting the people out was putting the cart before the horse.

Our thought was these jobs need to be he created first, these positions need to be slotted into a particular salary slot, into a certain job description and certain qualifications and given a title and until that's done, we aren't really prepared to recruit for these particular jobs.

So you know, our feeling was the first step is to get these jobs created and that meant this board approving titles, descriptions, job quals, and the salary ranges and then we would pursue the people as far as interviewing people and then putting them through the normal process which I agree.

So rather than finding the people and then you know creating the jobs --

>> FEMALE SPEAKER: That's putting the cart before the horse.

>> MALE SPEAKER: Right.

And we're aware there is a statutory mandated date put into the bill that the board be the conduit for this.

The suggestion I had made was that the board approve the jobs, which I think the law requires because I think if you read -- involve it right in front of me but, if you read the budget language it specifically makes reference to 3104 of our law which requires three members of this board to approve.

That once the jobs were created, then maybe the actual hiring or the people could be possibly turned over to staff to find the people but that the jobs themselves, the descriptions, the quals, and the salary ranges need to be I think set by the board because I think that's the way the budget language anticipated it to be done.

But that the people, you know, the recruitment of the people and maybe the actual hiring of the individuals could be done at this level.

So you know, our concern was just delaying this further because know, the budget was passed a while ago, it's now almost July and there is a million and a half dollars that was earmarked for this program.

This is just a first small fulfilling that and we're concerned about delaying it and not getting it done.

>> DOUGLAS KELLNER: So you can have that by next Friday?  
S Friday?

>> FEMALE SPEAKER: Probably, yeah.

>> DOUGLAS KELLNER: I think Evelyn and I are prepared to meet either -- if necessary, either at Evelyn's home or at Neil's home, if necessary, just to have the -- Helena's home, I mean.

We will travel, if necessary, just so we can have the commissioners together to get a quorum to do this.

>> HELEN this.

>> Evelyn: I think also Stanley's wife being so seriously seriously ill has it too, I should say.

She's very, very ill, not a minor.

>> DOUGLAS KELLNER: I agree.

Unfortunately, Peter, the campaign finance in the legislature did not produce anything.

But you're right.

We have a statute, we have to get it done.

And --

>> HELENA DONOHUE: What is the problem?

>> ELIZABETH HOGAN: I'm not saying there is a problem.

But I just began the job.

I have questions about how the wording regarding duties and responsibilities should exist in what we're putting forth.

Bill made some suggestions and I will make some suggestions back and he and I over the next week will discuss this further and I think come to a resolution about it.

>> HELENA DONOHUE: I think that's the problem that Liz is here for just a short time.

And that takes a little while.

And we rally want -- since she is the head of that department, we want her to have a -- you know, have the staff there that she feels is most necessary together with Bill so they both are comfortable and know, which is going to be our biggest department -- that our biggest department -- we don't want to rush to the point where we do things and later we're sorry.

I think if she gives us an answer by the end of this week or early next week, I think we have enough to be able to come to our next meeting and put it all down on you know, you and Stanley and Peter can work that all out.

And I don't think we're going to give us any problems over it.

But it takes a few minutes to get this done and it's a new department.

She's new in the department.

It's not like she was there for a long long time.

If it was Michael, we could yell at him but it's not Michael.

He's gone so we have Liz and we have to give her a little chance to get her feet wet there to find out what the heck is going on in that department.

So that takes a little while and we want to get the right answer and do the right thing.

>> ELIZABETH HOGAN: So can I ask the date that you want this by? Next Friday or this coming Friday?

>> DOUGLAS KELLNER: I'd like you to make sure that Bill McCann and Peter and Todd Valentine have your comments on this in terms of your proposal on how it should be. And then to start meeting with them.

You know, but certainly no later than Friday for you to give them a proposal.

So that -- a week from Friday.

>> ELIZABETH HOGAN: Okay.

that's fine

>> DOUGLAS KELLNER: I think that's 10 days and that by now --

>> ELIZABETH HOGAN: I think that's fine.

>> DOUGLAS KELLNER: And then obviously, I would hope that this can be discussed at the staff level and if it isn't resolve at the staff level, we'll have to take it up with the commissioners.

>> Evelyn: I'm not trying to push anyone.

I just know what my limitations are going to be.

And I pray that Neil is better and -- I think he's just had a really rough time.

>> FEMALE SPEAKER: And you're going to have a difficult time too.

>> You're traveling.

That's all.

>> Evelyn: Traveling will be tough.

Maybe I'll get a motorcycle.

(Chuckle).

>> Not a suit now.  
A red leather suit.

>> DOUGLAS KELLNER: All right.

So I think that's -- is there anything else to say on that?

Let's turn now to the election commissioners association after the HAVA extension legislation.

We passed out copies of what they voted on yesterday.

Just to review this.

My own view on this is that I think there is universal consensus that we do not want to leave the existing statute as it is without taking further legislative action because there are some people who will argue that the existing -- certainly the text of the existing statute makes it illegal to use lever voting machines after September 1st, 2007.

Now I blukly said at the election Commissioner's association meeting yesterday that if in fact we come down to the point that the legislature doesn't take any action on this, I personally will recommend that the state board issue an advisory that given the unanticipated contingencies of the impossibilities of certifying a new voting system that that unanticipated contingency that we will still authorize that we will interpret the statute as saying that -- recommendation that the County still use the lever voting machines.

But I think that's my personal position.

I can layout the legal arguments behind that if that time should come but I would hope that it not come to that.

And certainly we would put at risk that somebody would go into court and successfully get a court order prohibiting use of the lever machines.

That would require this year's elections to be held all on paper and there are advocates out there who are actually saying that they think that's better than using the lever machines or any new electronic machines.

I don't agree with them.

But they're out there.

So that's step one is that we need to do something about making the lever voting machines illegal.

The second thing is that the current statute requires one fully accessible machine in every -- at every pole site notwithstanding that the next two elections are not federal elections and there's argument over whether the February 2008 election is a federal election.

The federal government stakes the position a that it is.

There are many of us arguing thaty leblghtsing delegates or a nonbinding presidential primary is not a federal election.

But in any event, again, if there's no action taken, the text of the state law would require that there be one fully accessible machine at every poll site.

And I sense that there is a consensus that we should allow the lever voting machines to be used until there's a reasonable time for the counties to implement and to purchase and implement the new voting system after we certified and the second thing is that we have to address plan B and that there's no one who believes that it's feasible or a good idea to have plan B machines at every poll site this year.

So we need to change the state law to do those two things.

And then of course we have the overriding concern that we're all legally bound to comply with federal law and we've all taken an oath of office that we will uphold the laws of the United States and the federal constitution so that we need to reaffirm our commitment to ultimate compliance with the federal law.

>> FEMALE SPEAKER: I was wondering.

>> DOUGLAS KELLNER: Let me just finish.

>> I thought you were finished, sorry.

>> DOUGLAS KELLNER: Sorry if I'm going on too long.

>> No, no, go right ahead.

>> The election commissioners sow sais tried to do this as a collective effort to try to put together the assembly wrote, the bill that the Senate wrote.

They weren't really talking to each other during the last week of session and so I think the assembly bill actually passed the assembly.  
I don't think the Senate ever even voted on their bill.  
>> I don't think that's true, Doug.  
The Senate did.

>> DOUGLAS KELLNER: They did.  
I stand corrected then.  
>> That's my understanding.  
>> DOUGLAS KELLNER: But in any event we've got two one-house bills right now. I think each of the bills, the assembly and Senate Bill had technical flaws in it. The -- so the legislative committee of the association sat down and did a draft. I was the scrivener of it but not really the necessarily of all the text in in it. And then yesterday that draft was -- they put in an additional provision that implementation should be extended until there were at least two voting systems or more than one voting system certified by the state board of elections. I'm not sure how you can justify that under the federal law that if we certify one that you know we then lose our argument that it's impossible to comply with the federal law which seems to be the hook that we've been relying on up until this date to justify our noncompliance with the federal law.  
So this is their version.  
My own recommendation -- I think the legislature would find it helpful if we could at least propose a program bill from the agency.  
They're obviously not bound by anything we do, but it would be a starting place for their discussions.  
If we can't agree, then that's -- it just exacerbates the problem and it also leaves the state -- the legislature in a position of saying well, if the experts at the state board can't agree, in some degree it releases the legislature from part of the blame if we don't send a bill over.  
Thank you for letting me speak so long.

>> Evelyn: They gave us this copy.  
Are they presenting this to the legislature, the County commissioners.  
>> DOUGLAS KELLNER: Yes.  
And they're also presenting it to us.  
>> Eh Lynn: So they present to both houses.  
>> DOUGLAS KELLNER: Both houses, the Governor and us.  
>> I didn't know if they presented it.  
So it's already there.  
Are they examination us to support them in that effort.

>> MALE SPEAKER: I don't think they specifically asked for that.  
>> Evelyn: Todd, since you're the one who --  
>> DOUGLAS KELLNER: Remember Helena wants to too.

>> Evelyn: These are only two things.  
Todd, if this is passed will this be good for us in our conferences with the Department of Justice?  
Eh eh  
>> TODD VALENTINE: This is state law.  
They already have their view regarding@           ú 8@ >nes as to whether or not they meet federal law.  
I think we have a agreement with them on that.  
But we haven't come to that issue because our own state statute already requires that repl current.  
>> EVELYN AQUILA: Right.

>> TODD VALENTINE: whether the timing gets pushed off or not, I think an argument, they'll try to, I would assume, push their enforcement of federal law as to whether or not it would allow this under their own statutory authority as opposed to ours and whether or not this conflicts with the federal mandate.  
So I'm not quite sure how they would respond.  
But part of that -- our problem to this point has been regardless of whether it's

state or federal, our issue has been more practical.  
We don't have a device to replace them.  
So even if you wanted to, there's nothing you could have presented and we've been moving forward to the best of our ability at any given time to try to comply with both federal and state.  
So -- you know, it's hard to say what their answer would be.

>> EVELYN AQUILA: All right.  
I just wanted to know your feeling from talking to them once a week, that's it.

>> HELENA DONOHUE: Okay.  
as we discussed at the last meeting, the one placement that was brought up was that this would be effective until March of '08, correct?

>> DOUGLAS KELLNER: This draft that came from the election commissioners association has a section 3 in it.

>> HELENA DONOHUE: I know it does.

I read that.

All right.

So that in effect would eliminate that March 1 of '08 -- see, I think we're crazy to put another date in there that has every possibility of being changed again.  
Because every time we do something or we think we're on the right direction, somebody comes in and says oh, no, that won't work.

This can't work.

And we see this with the other states that have taken a lot of this equipment and I just think we should leave the date out.

>> DOUGLAS KELLNER: well, if you took -- I mean, specifically, what would you do? Right now, if you just delete the dates out of it, you don't have a complete sentence.

>> HELENA DONOHUE: well my feeling is when I read the proposal by the Senate, they don't put an exact date in there.

>> DOUGLAS KELLNER: No, but, if you read the proposal by the Senate, which I understand the drafters -- it was not the drafter's intent, it would repeal any obligation ever to replace the lever voting machines.

And that was not the drafters' intent.

It's just a drafting error in that bill.

>> HELENA DONOHUE: I don't see that.

>> DOUGLAS KELLNER: well Peter, was it your intent that they should never have to replace the lever voting machine?

>>

PETER: I had no intent.

I wasn't involved with the Senate Bill.

I read it and I didn't realize.

I I agree that's what it does.

It eliminates section 11191 and then --

>> DOUGLAS KELLNER: Right.

And then the other technical issue is it does not exempt the voting machines from the requirements of 7 -- 202 of the election law which set forth the requirements for voting systems in New York.

So even though it may not specifically require the replacement of lever voting machines, it still leaves in place a statute which effectively requires it.

So it's a technical defect in that draft.

I could also point out the technical defects in the assembly draft.

The other thing that the legislative committee at the election commissioners association added to the Senate text is what they did is effectively took the Senate text and moved it into section 2 of this bill.

And they added specifically the last three sentences to the Senate Bill which makes it clear that with respect to the plan B machines, the handicapped accessible machines, that any registered voter who resides in the County shall be eligible to

use the ballot marking device on the day of the election.

That's to override the statutory requirement that the voter personally appear at the poll site unless they fit within the established exemption categories for special ballots.

And then the second thing is that they specifically added that the canvas of the ballots cast on the ballot marking devices should be handled under the same procedures as the election roll prescribes for absentee ballots and then finally to specifically give the state board of elections jurisdiction to prescribe the procedures for implementing the plan B or the ballot marking devices.

Last year we didn't need those three things because we did it in the federal court order.

But we're not able to get a federal court order this year because these are not federal elections and federal help America vote act does not require ballot marking devices for the disabled in the 2007 elections vments so that text was added to take tear of the technical defects which appear in both the assembly and Senate bills. The assembly bill did not deal with the ballot marking devices at all, which again, they say was an oversight.

That they didn't think about it.

Section 3 of the bill does address, Helena, the issue I think you're raising which it says specifically notwithstanding the foregoing in they veptd that the state board of elections has not certified what they said is more than one voting system. I would change that back to a voting system.

As complying with the requirements of the state law by this December then we would postpone the effective date for another year.

And the -- and the city was mainly advocating this but I think a lot of the state commissioners agreed is that we should commit by statute that there is going to be at least nine months advance notice from certification until the implementation. So those dates contained in section one of the bill, the March 1st, are really just targets that track the federal oaption that continued the right to get the lever voting replacement money but in fact the meaningful provision is in section 3 that says that it has to be a year after the board certifies.

It's a compromise.

The question is do we recommend a compromise legislature or do we hold out and say it's your problem.

>> EVELYN AQUILA: I'm afraid if we don't have a date like March 1st, 2008, it looks like we've given up.

That we don't want to have targets that we want to reach and that the federal government may take that to mean look, they won't even give us a date that they're trying to get to.

You know?

And I think section 3 explains it very carefully by saying notwithstanding the foregoing, and in the event we haven't certified anything, I think it's trying to cover both issues, number one, if the Feds should say to us, you don't care, you haven't even put a date out there?

And the second part, if we -- if that date proves not one that can be met because nobody's certified, you look at section 3 and we could -- I mean, Todd certainly could defend that by saying look, we had it in section three, we knew there was a possibility of this but we really are trying to work for March 1st, and I think we are trying to work towards getting this done.

So that's it.

>>

PETER: I just have a thought.

As you know, I mean, we discussed this at the last board meeting, I personally have a certain resistance to having dates set out because I know we've met so few of them that you know setting out more dates does not always seem to be in our best interests.

My sense of it is that next year's process will be driven by the Feds in the sense that -- and I think Todd has articulated this -- that the federal government's interests are the federal elections and I think once the federal election approaches for next year, we're going to see a lot more interest at the federal level on what's going on in New York than what we've seen this year because next year is a federal

election.

Notwithstanding what language the state legislature might put into a bill, I think that order this court jurisdiction as we had right now over us with compliance in HAVA is going to have a lot more to do with what we do next year than certainly what we're doing this year as Todd has indicate td appears that justice is not pursuing a court order for this year at all.

Certainly we don't have one now and I think at this late date being almost July, I'm guessing that they're not going to pursue another order similar to the one that they had last year.

I do not believe that that would be the same for next year.

I believe that the federal Justice Department would feel some need to come in and do something in the context of that federal lawsuit in relation to next year's federal election notwithstanding whatever language the state legislature decides to put into a bill.

So it's my sense that next year's agenda would be driven probably more by that federal lawsuit than by any state law that may or may not get passed by the state legislature.

I think my biggest concern in the state legislative context is this year because I agree with you.

We have a law on the books right now that mandates the removal of all lever machines and the implementation of one disabled system per poll site in the state for this fall's elections which I don't think anybody in the elections community thinks is going to happen.

And it seems to me that the focus needs to be to get that provision removed from the law so that our boards and we are not in violation of our own state law notwithstanding the federal government's lack of interest in this year's election.

So I think the focus has to be on that rather than on that they want to articulate for next year.

I can see what this bill is.

You're right.

It's an attempt to take the assembly and Senate Bill and mash them together into one quote unquote compromise bill and the focus for N. year is misplaced.

I think we should focus on this year.

But then --

>> DOUGLAS KELLNER: But this text solves all this year's problems.

>> I think it did.

The way I read it would relieve them from their mandate for this year.

In that sense it would only impose the plan B mandate on them this year which is one disabled device per board.

And that is basically what they did last year.

>> DOUGLAS KELLNER: Per County.

>>

PETER: Right.

Per board, per County.

So I agree.

But then it goes on in the first part to impose these deadlines for next year which again -- I'm just saying that my belief is that's going to be dealt with probably more directly.

whatever we do here.

>> DOUGLAS KELLNER: Peter, do you have text on how to rewrite that?

Section 3 is designed to do that.

If you don't like the way section 3 does it, is there another way -- see, we're agreed.

We're absolutely agreed that we do not want the lever machine provisions to be effective currently.

And we're absolutely agreed that we want one per County of the ballot marking devices for this year.

So let's say that and send it off to the legislature.

And.

>>

PETER: Just my sense there's a simpler way to do that.

If that's all we're trying to accomplish, I think that can be done in a very simple.  
>> DOUGLAS KELLNER: Let's write-up the text.  
We have to do it now though.  
We're about to leave and if the state board is going to take this action, we need to do it now and we have text now.

>>  
PETER: Well if there's agreement that's the direction we're going, I would think maybe we could do that.  
I got the impression maybe there was another direction which was to also impose deadlines on us for next year which is what I think is a --  
>> DOUGLAS KELLNER: Peter, you keep saying that but with you weren't at the legislative committee meeting when we did this and I never said that.  
>>  
PETER: No, I was not.  
>> DOUGLAS KELLNER: The March 1, 2008, date, was meant to track the exist federal ledge vaition to create a target.  
If you're saying under no circumstances can there be a target in there, I'm not sure why you're saying there shouldn't be a target unless there's some other agenda.  
But the more important thing is that we put on paper that one, we do intend to comply with the help America vote act, that we're good citizens, we understand our obligation, that we're going to comply with the federal help America vote act.  
Two, is that we -- that for this year, the lever voting machine elimination has to be postponed.  
And the same for the plan B.  
But we need text to do that.  
We can't keep getting bogged down and as I say, I think the assembly and the Senate each waited too long to write their versions of this.  
They were waiting for us to do it.  
And both of those bills are technically flawed.  
So neither one of them I could support.

>> EVELYN AQUILA: Could we agree Doug that Peter and you will write the new language.  
I hate to put this on your shoulders.  
>> DOUGLAS KELLNER: I don't know how you can send a program over without three commissioners voting on it.  
>>

PETER: I tend to agree.  
I if I if the board is going to take a position, the commissioners should take a position.  
Doug, my only agenda here is that we try to avoid putting ourselves into a position where we put a date out that we don't necessarily know ourselves we can meet.

>> DOUGLAS KELLNER: Peter, I don't think there's anybody in the world who thinks that March 1, 2008, is anything other than a target date which is the same target set by Congress.  
But -- but to me that's not the issue here.  
If you're asking for an open-ended repeal of the state's commitment to comply with HAVA, then that's a nonstarter.

>>  
PETER: Well I don't think the state legislature necessarily has to put in a date for complying with HAVA.  
We all understand in New York we have an obligation to comply with HAVA if for no other reason we have a federal law.  
>> DOUGLAS KELLNER: Peter, we took the date out in section 3.  
>>  
PETER: I understand that.  
I just think from a state -- we have the federal lawsuit.  
We so a federal law.  
We all fully understand that and all fully intend to comply with both of those.  
I think they then imposed a separate burden or requirement on us which is to remove

the levers and do this program within a time frame they created which was this year which we're now also not going to be able to meet.  
So weigh we had the Feds saying doing it last year, we couldn't do that.  
We got relief from the federal court.  
We have the state saying do it this year, we need relief from that.  
I'm reluctant to say no problem, we'll do it next year and have to go back in and say gee, we couldn't do it again can you give us relief yet again?  
I just feel like we keep having these deadlines put on us and we can't meet them and that's just not the best way to go here.  
I thought we'd agreed that in essence we would do this program within the time we felt it was able to do.  
>> DOUGLAS KELLNER: Peter, do we have text?

>> well, I don't have specific language.  
I think 23 we have an agreement on --  
>> DOUGLAS KELLNER: How can we vote on it if there's no language?  
>> I'm just suggesting if we have agreement on a concept, I don't think putting the language together would be that difficult.  
>> DOUGLAS KELLNER: All right.  
Let's start working on the language right now.  
Put it together.  
>> well, I don't know if it's that simple that we can do it right here, right now.  
>> DOUGLAS KELLNER: But the commissioners are meeting now.  
I'm going to make a formal motion that the state board endorses a program bill.  
The bill adopted by the election -- the text of the adopted by the election commissioners association with one change and that is that insteadz of the language that they have in section 3 that says in the event that the state board of elections has not certified more than one voting system as complying with the requirements of section 7 -- 202 of the election law, that our text say "In the event that the state board of elections has not certified a voting system as complying with the requirements of 7-202, then the effective date shall be December 31st of the year in which the state board of elections makes such certification."  
So that's my motion of the resolution that I'm offering for the commissioners to adopt now.

>> Speak to it.  
>> Allison: I have an issue.  
what would be the effect -- taking the language that you just said, the effect would be that if for example, the liberty system were certified first, prior to December 31st, 2007, New York City would be forced to buy a machine that they can't use.

>> DOUGLAS KELLNER: well liberty isn't certified for use in New York City so they wouldn't be forced to use it.  
And therefore, at least with respect to New York City, it wouldn't be effective.  
>> Allison: But it doesn't say that here.  
>> That's true.

>> FEMALE SPEAKER: Certification would say that.  
>> Allison: But it doesn't say that here.  
It says certified.  
It doesn't specify for use in the state or for use in New York City.  
That would be a problem.  
>> Could be.

>> DOUGLAS KELLNER: Notwithstanding the foregoing in the event that has not certified a voting system as complying with the requirements of section 7-202 of the election law --  
>> Allison: That's why I think this is dangerous.  
Pete Pete there could be more contingency.  
>> DOUGLAS KELLNER: I don't have agree.  
I've made my resolution, I think we understand everybody's positions now.  
Does anybody want to speak directly to the resolution?

>> I don't support you and I have stated in two different meetings why.

>> DOUGLAS KELLNER: Okay.

so it's defeated by a of two in favor and one opposed

>> EVELYN AQUILA: We could send it over saying the two Democrats support it.

>> DOUGLAS KELLNER: I'm sure we'll do what we have to do.

>> We want to make sure we're not caught this year.

You know?

>> DOUGLAS KELLNER: All right.

Then the next issue I wanted to raise was dealing with Diebold.

The NIPIRG disclosure of excess campaign contributions that was released to the press six weeks ago disclosed that Diebold security systems, Inc. had made more than \$8,000 in campaign contributions last year, which is an apparent violation of the article 14 of the election law.

And then our regulation 62094i requires that any vendor who submits an application for certification -- I guess I should read the exact text of the regulation.

It says, "All vendors shall submit sworn affidavits from the chief executive officer or chief operating officer of the vendor disclosing any contributions made within the United States by any of those officers by the vendor itself, or by any controlling shareholder to any political party or candidate for any office within two years prior to the date the application is submitted."

Now Diebold submitted an affidavit saying that Diebold election systems, Inc. submitted an affidavit indicating that they had not made any campaign contributions nor were any campaign contributions made by their controlling Schroeder.

Diebold, according to the 10k filed with the Securities and Exchange Commission, Diebold election systems, Inc. is wholly owned by Diebold ink and that same 10k says that Diebold security systems, Inc. is also owned by Diebold, Inc.

And in my view, that it would have been appropriate for the vendor in making their application and in submitting their affidavits to have indicated these campaign contributions that were made by a corporation wholly owned by the controlling shareholder of the vendor that applicants.

I understand there's been some disagreement by the staff.

If that is so, that's a loophole that I feel very strongly should be closed.

But I don't agree that a wholly owned corporation that makes a campaign contribution falls outside of that text.

At least for the purposes that we have of disclosure by the vendor.

>> EVELYN AQUILA: Diebold did speak on television about these contributions and they said none were made by the electronic voting machines.

And they therefore, thought any -- any contributions they made had nothing to do with that division.

which is a wholly owned division as he this put it and that was an answer to -- I don't know if it was 20/20 or one of the other programs that asked them about it and it wasn't asking them about that New York state.

It was asking them about other states.

Asked them about Missouri someplace else.

They can always come against us and say we don't read it that way.

Do we have to make that interpretation there and decide for the future or can we say yes, this is the interpretation that New York state has always held?

Have we always held that as our interpretation?

We have to have legal proof of this.

>> PETER KOSINSKI: To be fair, there is no track record here, this is a case of first impression for this board.

This is a new regulation we've never interpreted before?

>> EVELYN AQUILA: It was Ohio was the state they were requested.

>> PETER KOSINSKI: There's no precedent we have as a board to say this is how we interpreted this particular provision.

There has been quite a bit of discussion within the staff about this and I agree there is disagreement about how that reads.

As I understand it there's a controlling entity which is Diebold which then owns

Diebold elections and also owns Diebold electronic -- security. And it's the Diebold security that gave the overcontribution and then the issue is that part of that controlling shareholder equation that is articulated in our regulation and there's some that feel no, the controlling shareholder is Diebold, not Diebold security. Because Diebold security is a sister subsidiary or wholly owned subsidiary of Diebold, not a controlling shareholder. So I guess that's the disagreement and the concern that we had at this time was whether we felt comfortable sending something out asserting you're in violation of our reg if we don't have agreement here. We wanted to be sure we had agreement here before we communicated with Diebold and if anybody accused them of doing something if we're not even in agreement here as to whether or not they actually did. Now, if this is a loop hole and if the intent was to capture these kinds of contributions in addition to the Diebold contribution, then maybe we need to articulate that better in our regulation so there is no misinterpretation or ability for someone to say oh, that's not covered. If our intent is to cover this and to make it clear, I'm not sure what language would be needed to do that myself. But, if this language doesn't do it, we'd have to find language that does do it if that's the problem.

>> DOUGLAS KELLNER: I'm prepared to argue that this language does it. But, if Commissioner Donohue's position or the -- is that it doesn't, I'm not -- I'm a grown up but then I need to -- we need to write the language that will have a paragraph long definition of controlling shareholder to include all affiliates.

>> PETER KOSINSKI: Just so you know my feeling on it wasn't that we were in disagreement but I didn't want to have them or have them say no, you misinterpreted the law and why is why it's wrong, gee, you're right, we're sorry. I'd rather have us agree that this language does what we think it does and I asked the staff if they could put together a definition what does controlling shareholder mean in this context and once we got that better articulated we could better understand as lawyers whether or not we are comfortable asserting this -- this does apply. So, if they challenge us, we would feel confident we could win if it comes to that. If there's a court challenge or any legal challenge, we would feel comfortable with our legal position. Yes, we have a legal position we could defend, that's all.

>> DOUGLAS KELLNER: At this point, I'm not looking to punish Diebold in the context of 62094. But to make it clear to the vendors that we do expect this kind of disclosure and that -- you know, the sanction is the public slap on the wrist that you shouldn't have done this, which I think is accomplished whether or not the -- you know, -- if we interpret controlling shareholder to include all of the entities that are controlled by the controlling shareholder and I think that is a reasonable and defensible definition, then we don't need to amend the regulation. We do need to remind the vendors that they have to do more than just sign a piece of paper. That they actually have to make inquiries that -- about their affiliates. And campaign contributions. I think in terms of the intent of the regulation though, it's pretty clear that when Diebold, Inc. is the entity that receives all the profits, that we're talking about all of the enterprises that are controlled by Diebold ink and not just the election subsidiary.

>> PETER KOSINSKI: There's an issue I have about this which relates to the affidavit itself. Because we're acquiring these entities, I believe it's the -- it's the president of the vendor, is that right? To put this into an affidavit because there are potential -- I would think criminal

implications to filing a false affidavit.

So I do feel we as an agency have an obligation to make it clear to everybody what you're asking for because if you submit an affidavit, if you lie on an affidavit, there are sanctions that might be severe.

So I want to make sure that this entity that's giving us the affidavit that being the election vendor, two things, one, they fully understand what they're asserting and what they're having to swear to.

And secondly, what we are asking for is reasonable for them to give us.

I mean, in this case, I don't know the set up with Diebold.

Maybe what we want is Diebold to tell us.

Maybe we don't want Diebold elections, I don't know.

Maybe Diebold elections doesn't know what Diebold securities is doing.

But maybe what we're looking for is an affidavit from Diebold itself who should know what all their subsidiaries are doing and could give us that affidavit with knowledge as opposed to Diebold elections who may know what their dog or doesn't know what securities is doing or some other sister company so that giving that affidavit may not be even reasonable from that entity.

So to me we have two issues and who gives it to us and also are we making clear what we want from them.

That's all.

>> EVELYN AQUILA: I wonder about the other companies, other vendors, are we looking at what they have to send?

Are they doing the same thing.

Some of them are owned by larger corporations too.

It's so common in this world that you're right.

These companies do get beat up by other companies, you're right.

Some elections companies do get large, they do get bought up, they're in a corporation with many other entities.

And right.

So it does become rather extended.

And I just want to be sure we're making everybody clear here's what we want and who can give us this information from your particular organization.

They should have knowledge of what you're doing.

So that's all.

>> DOUGLAS KELLNER: Could I ask for a report on this at our next meeting then?

>> PETER KOSINSKI: Sure.

>> DOUGLAS KELLNER: I would hope that as I say, we either draft what we're going to send to the vendor or draft a proposed amendment to the regulation.

which I would hope we would all agree on.

But the other aspect of this is that now, the Diebold security subsidiary that made what appears to be an excess contribution in view of their relationship to a vendor, a voting machine vendor, I would ask that we open up the investigation file on that now and not wait until whenever the enforcement unit is able to catch up to the 2006 excess contributions.

Certainly you know, that should be investigated in the same manner as the other overcontributions in which we don't assume that it was a wrongful violation but we -- because for one thing, it's not the contributor that makes the report.

It's the research yants who make the report.

So that it's always possible and I think that we have historically that some of the investigations show that there was not an excess contribution but there was an incorrect reporting by the recipient of the contribution who reported the wrong entity making the contribution.

So I certainly would give them the benefit of the doubt on that.

But I would not want to wait another year before that would come up in the ordinary course of business in view of the special relationship that they have to the agency as a vendor.

Or as an affiliate of the vendor.

So I'd like to make a motion that we open up that investigation file today and that we ask the enforcement unit to include that with their proposed 2006 -- with the

letters on 2005 that will come up.

>> EVELYN AQUILA: Is it only Diebold or each one of the vendors?

>> DOUGLAS KELLNER: Right now the only one that came to my attention just as I read the NIPIRG report and I said well --

>> EVELYN AQUILA: I saw it on television and I saw a man from Diebold say that was not Diebold election machines that made any kind of contributions.

>> DOUGLAS KELLNER: I think, yes.

>> EVELYN AQUILA: He was very clear in answering that question.

>> DOUGLAS KELLNER: The president of Diebold wrote a letter to the committee -- to the Republican national committee saying they would do everything in its power to assure the re-election of the president.

>> EVELYN AQUILA: He put money in and they were it.

>> DOUGLAS KELLNER: That's not this.

>> EVELYN AQUILA: Okay.

>> DOUGLAS KELLNER: That's not this.

This is the NIPIRG report on excess contributions that was released five or six weeks ago.

>> EVELYN AQUILA: All right.

I'll look at it.

>> DOUGLAS KELLNER: It was NIPIRG and common cause and other cosponsors of that research.

And certainly the point was well taken that they got out the review of the 2006 excess campaign contributions while our agency is still reviewing the 2005 contributions.

And I would simply say that yes, everyone here has taken note of that and our new enforcement council has been -- is fully aware of the need to revamp our procedures in order to catch up with the public on this.

But on this particular --

>> FEMALE SPEAKER: Can I ask one question, Commissioner?

The letter that you had directed be prepared and which Peter then you saw, are we holding off on sending that letter Diebold elections?

>> DOUGLAS KELLNER: No, my motion is to open up the investigation file now on that because staff have been telling me, Commissioner, you can't open up an investigation file without a vote of the commissioners and this wouldn't come up until another year from now when we do the 2006 excess campaign contributions and I'm saying in view of the relationship of this particular contributor to this agency because it's an affiliate of a vendor on the biggest contract that this agency is supervising, that we should open up that investigation file today and that the letter -- whatever the letter is that's going to go out to the 2005 excess contributors go out to this -- to this corporation with those letters so that they have an opportunity to respond.

>> That's not the letter I was asking about.

It was the letter to Diebold elections which you asked Anna to draft which then circulated to Peter and Stanley and myself and Todd.

>> DOUGLAS KELLNER: I'm sort of accepting Peter's recommendation that the staff prepare a formal interpretation of 62094i and that if the staff does not believe that 62.09.4i covers that situation, that we draft an amendment to 62.09.4i so that affiliates of the -- so that all entities that are affiliated with or contr by con shareholders would be covered.

>> I think we need to find out that that individual has the knowledge they wish to make that assertion.

>> DOUGLAS KELLNER: Agreed or that they'd have to get the knowledge.

>> PETER KOSINSKI: Right.

But we need to be assured of that somehow.

However, that would work too.

>> MALE SPEAKER: On your point of opening a separate file.

On the 2005 corporate contributions, the staff is preparing the file report, the enforcement council's office.

They've already done the correspondence to these corporations.

They've assembled a final report that outlines what happened specifically to each one and then as part of that review, they also do an historical review to see if there's any past history from these same corporations. That then goes to Liz's office.

A recommendation that comes to the board with a final report so the 2005 review is essentially done.

They're preparing the report to council which would come to the board for final recommendation.

These are 2006 staff is presently doing the review of the on the campaign contributions.

I would add while we appreciate the work of the good government group's corporation raised 2005 we had over 300 initially identified.

Their database for 2006 which is a statewide year where you would anticipate a larger number of corporations was less than 100 that they identified.

We take a great deal of effort to do our corporate overcontribution reviews.

There are a lot of analyses that go into identifying as you identified correctly what's provided by the recipient of the contribution.

For instance if you had Pepsico, Inc. as opposed to bottlers or whatever who types that in, they may do a shortcut.

There's a process that goes into it.

So we do an extremely thorough review and as history has shown, about a two year point on the timeline, I would add that they're finalizing the review of the 2006 data they will then go into our normal process for doing the correspondence to the corporations and so this corporation would be included --

>> DOUGLAS KELLNER: But I'm asking to take this out of that waiting -- that queue and I would recommend that they get the first new version revised letter that we talked about redrafting in terms of what would go out.

>> MALE SPEAKER: You made the comment about it being a year, this is a this year project, not next year.

>> DOUGLAS KELLNER: I'm pleased to see that.

>> MALE SPEAKER: It is.

It's already under way.

To your point on the issue concerning the letter.

I think the board has to have further discussion to come up with the fundamental position that that letter would take.

For instance in the past, the board has taken a position that when the corporations receive the inquiry concerning what appears to be an overcontribution, we ask that they take mitigating steps and I know that the Commissioner has expressed his concern that when the board requires or asks corporations to take mitigating steps meaning get the money back that's over the amount contributed, you felt it was an unfair burden on the recipient committee who may not have received the overbut the state board is saying but the state board told us to get the money back.

So our letter has taken that position.

But you had expressed a different approach.

So I think in total, the until the board and staff come up with a consensus as to what that letter might say, that is a lynch pin that we have to address.

>> DOUGLAS KELLNER: I agree.

I thought we were pretty far along on that though.

>> MALE SPEAKER: I don't think there's a staff consensus yet.

We haven't brought it to Peter or Stanley.

But that issue is on the table.

>> Let me separate this out and make just one motion which is that I move that we open the investigation file on the a lej and it's only alleged excess contribution for Diebold security systems, Inc.

>> MALE SPEAKER: I think it's an audit review we would do.

Not an investigation.

It doesn't technically go into enforcement yet.

>> DOUGLAS KELLNER: I'm asking that it go into enforcement as an investigation. Because --

>> EVELYN AQUILA: It's been made public.

>> DOUGLAS KELLNER: So that it's going beyond audit review and I'm also asking that it be put at the front of the queue because of the relationship between this entity and the largest contract that the agency is now handling. So that's my motion.

>> EVELYN AQUILA: Do you want to say for excessive files, for excessive overcontribution?

And investigation of tease you know, excessive contributions? And it's effect on the vendor or something like that.

>> Wherever it takes us. That's my view.

>> EVELYN AQUILA: I'm sorry I said anything.

>> DOUGLAS KELLNER: So I'm going to call for a vote on that motion. Those in favor say aye.

Opposed?

And now on everything else, I would just ask that campaign finance enforcement keep this on the to-do list and prepare a report on what's going on at the next meeting and I think we can take it from there.

And Bill, I appreciate the inroads that you made then in working through the backlog on the excess contributions.

I'm pleased to hear that we will get the 2006 report soon.

All right.

Next.

Contract issues with the voting machine contract Anna, I understand the origin of this is a meeting with OGS and the executive directors next week.

Peter, do you want to introduce it or should we just go through Anna to get her state of the issues?

>> MALE SPEAKER: Did we have a meeting?

>> ANNA SVIZZERO: You and Franklin and Stanley did, I was not --

>> MALE SPEAKER: Oh, that meeting.

>> DOUGLAS KELLNER: I was distressed by the phone call and so this is sort of to follow up.

>> MALE SPEAKER: Sno, that meeting was a very general meeting.

We didn't get into specifics.

His interest was to make sure that OGS was proceeding the way we wanted them to proceed.

He was looking to make sure his agency was doing what we want them to do.

And that really prompted me to contact Anna to make sure we had a list of issues that had been identified during the context of those discussions which we had with OGS and the counties regarding the contract so that we would -- and Franklin for OGS, would be assured that OGS had a complete comprehensive and accurate list of all the issues that they need to insert into those contracts to satisfy the needs of those counties.

I also in relation to that wanted to see those for myself because I thought we as an agency also need to make sure ha we're comfortable with whatever is going into this contract because it is a state contract to make sure it was doing what we thought was right at the same time.

>> DOUGLAS KELLNER: That's good.

I mean, I was distressed just to -- some of the feedback I was getting just doesn't seem to match up with what I thought was very substantial progress being made at the one two-hour or three-hour telephone conference of the committee.

What is the name of the committee now?

>> ANNA SVIZZERO: We didn't come up with an acronym yet.

We're still working on that.

>> DOUGLAS KELLNER: But this is of the representatives of the city board and various counties boards working with our staff and OGS to revise the terms of the draft of the contract?

>> ANNA SVIZZERO: Yes.

>> DOUGLAS KELLNER: And I thought Anna did an outstanding job of chairing that telephone conference because she certainly had a very clear agenda of all the items that people have talked about.

And was focusing people and moving through that agenda very quickly.

And there were two or three significant issues that had not been resolved in that long conference call.

But I thought that it was clear that a procedure had been in place for getting them resolved.

And then when we heard back you know indirectly that OGS felt that there were barriers being erected to this, I was very troubled by it.

There's no question in my mind that the commissioners, the four commissioners will make the final decision on our recommendation to OGS.

But that I thought that it was very important that the County commissioners who really have much more experience in dealing with vendors and contracts than we do be very much a part of that process.

>> It was called an advisory committee when we did vote for it.

That becomes clear to us.

>> DOUGLAS KELLNER: Anna, are there any issues you want to take up?

>> ANNA SVIZZERO: I don't believe there are any that we can agree on now.

Unless that's changed what we agreed on with OGS was OGS would provide a red copy. I don't think the notes they shared with us in an e-mail yesterday fully captured all the areas where there was consensus they agreed that they combine a red line copy and incorporate all the issues where the board wanted language removed that had been negotiated with the vendors.

where the advisory board wanted new language inserted.

Definitions were going to be provided.

So the counsel for OGS and I had exchanged an e-mail and we offered to sit down with Lori Bahan who worked on the contracts and the attorney Michelle and I to go through notes and make sure that they captured all the consensus points so the red line could be prepared and shared with the board and in that you could see where the committee had agreed, where there was consensus and where there were still outstanding issues.

OGS has some concerns for the strong line that the group took for example, there's a penalty clause that the group developed language for.

There are breaches of warranty, there are periods of response that the group has identified that are fairly strict and OGS is certainly raising the points that these issues are going to raise the cost of voting systems.

So we really didn't wrap up those issues.

They'll be articulated in the red line version for the board to see in full context.

But the final question on our last phone call was whether the board felt that this contract should be rebid because of the significant changes in it.

Once the board agreed to all those changes or whether informational documents could be exchanged with the vendors so that pricing or other issues could be revisited by them.

The rebidding was my personal position.

I think there's significant changes in the contract and significant changes in the voting systems for what they were bid last year to now.

Even through the abbreviated certification process conducted by cyber.

Those voting systems were required to make significant changes and their very different from the systems we're seeing today and that's going to affect the cost.

So until the --

>> DOUGLAS KELLNER: I have two comments on that issue because bidding was one issue you talked to me about and I strongly support the idea that the contracts be rebid. The other three commissioners can be heard on that as well.

But I think it should be rebid.

One of the alternatives is OGS would go back and use this as a form and then begin

negotiating with the vendors and I think that's a terrible idea especially because of their track record in doing it so far.

The -- I would suggest that when we have a fairly close to final draft to be presented to the commissioners, that it also be distributed to the vendors at that time so the vendors can make whatever comments and objections that they have to us and maybe to this advisory committee.

But certainly to the commissioners so that certainly I don't want to be put in a position where because of one sentence that gets slipped into the contract that the vendor says is going to double the cost of the contract and nobody realized that, so, if the vendor can call that to our attention in the drafting phase, you know, then --

>> PETER KOSINSKI: I'm just thinking I hope they would -- my concern as I've said is that it could be caused and I've talked about this you know that I don't want from my perspective to put provisions in there that drive the cost up to a point where counties cannot you know afford the machines any more.

I would only hope that if vendors see those kind of issues, they would be willing to you know notify us of the financial impacts of some of these requirements.

And --

>> DOUGLAS KELLNER: Yeah, and I'm suggesting that's a better process to do it publicly on the record rather than by having separate negotiations privately between OGS and each vendor, to get it on the table up front.

>> PETER KOSINSKI: That's fine to me.

I think part of what frank is looking for is that --

>> DOUGLAS KELLNER: what I'm proposing but I'm only one Commissioner and I don't know that we should make a final decision on this today since we're not ready. There's still issues unresolved.

>> EVELYN AQUILA: Yes, I agree.  
We wait until we know exactly what we're doing.

>> DOUGLAS KELLNER: All right.  
We did campaign finance.  
Maybe I'll go out of order because we had the one other OGS issue which is really new business and we'll come back to the last item.  
So -- Helen a has to leave.

>> DOUGLAS KELLNER: We'll go quickly then.  
Allison, you want to report on the OGS issue?

>> Allison: Like Anna said earlier, I was prepared to make a recommendation to the board today on which of the two bidders to the RFP should be selected to be our new independent testing authority.

However, I received a call from the office of general services this morning explaining that they made an error in the way that the scores for the cost proposals were to be weighted.

And that if they continued using this faulty scoring mechanism, it would result in a gross disparity unfairly between the two different vendors.

They need to go back, they have a remedy available to them where they're going to go back to the two bidders and they're going to have them recalculate the cost, look at their costs again and resubmit them.

They have assured me that they'll have the final cost to me by the close of business on next Tuesday.

So, if we go to the final costs next Tuesday, I'm prepared to make the recommendation to the board on Wednesday in fact, I know that Wednesday is a holiday.

It's the 4th of July.

But I'll be working

[Laughter]

>> As you have a huge amount of time.

>> Well, that's a good point.

I want to make sure that it's stressed it wasn't just me.

I was a team chair but I had a great team and the office for technology gave us unlimited access to Bob Pesdek's knowledge and the New York City board of elections

specifically on Ravitz and George Gonzalez allowed us to use John O Grady for the past month and I know he's had a tremendous amount of work he's had to do at the same time while helping us out.

Anyways, I digress.

I need to find out from the board when they would like to be prepared to hear the recommendation and vote on it.

>> DOUGLAS KELLNER: As we talked about before, Allison, we want to specifically -- since this is somewhat urgent to get the independent testing authority contract in place and we were hoping to have board vote on it today and that was one of the goals for setting today as the date of the meeting that I will move that we accept the OGS recommendation with respect to the revision of the RFP and that we authorize the executive directors to proceed with a contract as soon as the responses come in next week.

So you won't have to wait for a formal board approval.

>> Appreciated.

>> Is that all right, Peter?

All right.

Let's vote.

>> DOUGLAS KELLNER: Those in favor say aye.

Opposed?

All right.

So that's done.

And I guess the bottom line is that we are moving urgently on getting a new independent testing authority and restarting testing.

And in two sentences because we're in a hurry, can you just explain where we stand on that?

(Audio stopped -- refreshing) those in favor say aye.

I certainly -- second that.

>> So anybody else?

The office for technology.

All right.

Both of them too.

>> DOUGLAS KELLNER: Why don't you write it either for the executive directors or for the cochairs?

And then we'll do that.

I certainly agree that we've had a lot of very -- all right.

Last thing is I guess just my reminder that the undervote issue is something we should be working on now and at least I would ask that we have staff working on finding out what's going on in other states and reviewing literature on the subject so that we can make an informed decision with respect to the three options.

>> EVELYN AQUILA: You know where I stand.

>> DOUGLAS KELLNER: Okay.

we have no business for executive session today.

So we'll take a motion to adjourn and stand adjourned.

>> EVELYN AQUILA: Thank you all for coming.