Peter Kosinski: I'm Peter Kosinski and to my right is Greg Peterson, to my left is Andy Spano, and on video is Commissioner Kellner. So, we will begin the meeting with a motion of the minutes of March 19th. Do I hear a motion to adopt?

Gregory Peterson: So moved.

Peter Kosinski: Second?

Andy Spano: Second.

Peter Kosinski: All in favor?

(Chorus of ayes; 4-0). Opposed? So those are adopted, and we will move on now to Unit updates and our first Unit is the Executive Bob Brehm and Todd Valentine.

Bob Brehm: The work of the agency to prepare for today's meeting took a good part of the work that we have been doing as a unit and an agency. I think most importantly; we will start with budget. The budget was adopted since our last get together. There were no new funds appropriated to the agency and the co-executive directors have had three in-person meetings with representatives of the Chamber and the Division of the Budget, and one, two conference calls with the Office of General Services in order to review the fiscal situation to make sure that we are aligning our plans with the monies that are available. I think the easiest to report to you is there is a little bit more work to do that we anticipate at your next meeting to be prepared with a recommendation that you consider expanding the use of the State cybersecurity funds for the day-to-day operational expenses of the agency, should that need arise. I anticipate that that need will arise somewhere in the September/October period of time of the year.   So, we prefer that for planning purposes, we recommend that perhaps at our June meeting, that's the next meeting, to have that ability for purposes so we don't wait until the fall to do that, from a budget point of view.

Also, from a budget point of view, there were a number of brand-new pieces of legislation that impacted elections included in the budget. The State board participated at the request of NYSAC, the New York State Association of Counties, to have a Webinar with county chief officers and the leadership at NYSAC to review this for the chapter law changes. It was also the information that we shared in the county telephone call last Thursday with Boards of Elections as far as the many chapter laws. An example, making uniform the primary hours of all counties beginning next year from 6:00 AM to 9:00 PM instead of those counties outside of the nine that allow all day voting, but everybody else had an opened at noon. So, it will be uniform throughout the state. The three hours of the voting time off for voting went into effect. The State Board updated the information that is posted on our website, the notice that employers need to make available to their staff based on the new wording, we did that update to the document when we did post it to the website and give it to all the county boards. We are also working on an FAQ, because since we posted it, there a number of people asking us questions, so we are trying to gather those questions and put out an FAQ as a way of trying to resolve them instead of answering the same questions repeatedly.

Online voter registration is another item that was in there and there are several others so we are beginning our planning purposes as far as what further impact the new laws will have on the work that we have to do, the deadlines to implement them, and then again, there is no new money in the budget to pay for any of these items so to the extent Bill Cross and his team have at least looked at them and given a preliminary evaluation on what work we might need to do and how much time and money it might take, is still in the process for those new bills. I think one item that came out of our discussion last Wednesday with the Division of Budget, the wording that we had heard discussed during negotiation on the budget and we asked in the room last Wednesday, was how did the Division of Budget think we were going to fund implementing online registration since they said we needed no more appropriational authority to get that task done, and their answer to us was to put together a plan and envision the funding would be sub-allocated to us through the state infrastructure, which is a large capital fund. It still has a two-year appropriation, excuse me, implementation deadline which is in itself going to be a task so we will need to follow up if that's the path we're on to come up with an estimate as to how much money we would need sub-allocated in order to kick that project off as early as we can to have any chance of getting it done in two years.   But at least they've confirmed to the State Board that which we had heard through rumors behind the scenes anyways, which was the approach that they were looking at. So that is the path we will follow at least to identify how much we think the project will cost and then start working to sub-allocate the funds to make that possible.

The only other item I think from a budget point of view, which is a big one, is a full accounting of all the remaining Help America Vote Act funds. The State Board received communication from the Federal Election Assistance Commission identifying all of that myriad of grants that we got back from the initial one in 2000, when they sent every state $5 Million dollars out of the Help America Vote Act and then they subsequently made several appropriations overtime, that they are re-evaluating all of those grants to try, because they all have different start and end authorities, to try and summarize and bring them to a conclusion. There is still forever money and from our review at the staff level at the State Board, the Division of Budget, and Office of General Services who host us for keeping track of all of these grant funds to be sure there is approximately $12 million dollars, a little less than $12 million dollars left, and appropriation of those Help America Vote Act dollars to county boards of election, the majority of that money was old machine money that some counties had spent it all, other counties had some left at the end of that buying of the machines, the residual amounts that were dedicated to each county were in a program that has an acronym that I forget the words of the acronym other than it is called the Shoebox Grant Program. There is another approximately $2 million dollars of federal money that was appropriated by the legislature for use by the counties for poll site training and access related efforts. So, you need to combine those two; it's just shy of $12 million available to the state of, the total appropriation that is still available is just shy of $17 million. Delta is what the state has available to it.   Some of that money is already dedicated to the NYSVoter update, which is a deliverable-based program that the vendor is still working to deliver all of its services, so some of it is encumbered against until the vendor finishes, which we anticipate soon, and then very few other dollars are in that category. But there are restrictions on what we can use then, the State of New York can use that money for. It has to further the administration of a federal election. So, one example of what we couldn't use it for is to update the FIDIS system, because it can't be a finance system for the State of New York in no way further the administration of the federal election, because the Federal government totally regulates

campaign finance at the Federal level. So we will examine those funds and recommend to you if there are any of the cybersecurity improvements or the technology improvements that would benefit from the use of those funds and hopefully we will have finished that in very short order long before the next, we hope before the next meeting so that we can at least give you, here's what we have, here's the list of to-dos, here's the list of to-dos that would qualify for the use of this funds, and if it is your consensus that we follow that path, then we would ask you to give us that approval at the next meeting. But we have examined every appropriation, we have examined every re-appropriation, we have examined the cash that is in the bank account behind every re-appropriation, and we still are at about $2.8 million-dollar deficiency in the funds that we have available for personnel and contracts. That may adjust a little bit if we can identify some of the work that we are doing that might be able to use the Federal funds.

That being said, we have encumbered under the grant program for cybersecurity and infrastructure improvement, certain projects that will protect the county Boards of Election systems and certain projects will protect the State Board of Elections programs. We are advancing on those projects because they are paid for 100% with the Federal grant money or they are paid for out of the 5% State match, which is about $1 million dollars that we have dedicated out of the State cyber money because that's the only money we have to pay the 5% match. Those are continuing because they are dedicated funds to that project that you have already approved that we participate in and I think that Mr. Cross can give some information during his report on that.

Other than that, we worked to get some feedback on the regulations that a myriad of staff and the units of the agency helped to draft and to get them out to counties, to get comments back from County Boards of Elections. We've worked to incorporate as best as we thought we could, the comments that we received to give you an amended version today, so I thought that was helpful to get those out. They are also posted to the State Board website when we were able to share them with the counties so that they had been out in the community for more than a week, and certainly these will be recommendations to be emergency regulations because there are certain deadlines that are in the regulations that are coming up and then they will take their normal path after that and we'll have the normal posting and comment and come back to you for a final version. I would anticipate that they might change but at least I think they are in a spot now for you to put into place and knowing that we will continue to examine them. I think some of our next steps we discussed at the, Tom and I, is to work with county Boards of Elections to put together a kitchen cabinet advisory group to try and do that, once the regs, a version of the regs are in place, to start working on the procedures behind those regulations; put meat on the bones of the procedures. Many of the existing opening and closing procedures that we've used for years since we have gone to the new systems in 2010, will probably need a little tweaking in order to accommodate early voting. So, we are looking to get together a small group of both ES&S-based counties, and Dominion-based counties, to help best to document and get that out as early as we can. So, we will be looking to do that and certainly we know the next month, at a minimum, will be focusing on the E-poll books and that is an important project to try and move forward. We had had numerous meetings with the Office of General Service on a procurement process for electronic poll books based on the advice of the Office of General Service. An initial request for information was put out to the counties and to the vendor community, and the public, with proposed functional requirements and security requirements. Feedback was obtained, OGS had indicated initially a couple of avenues that might

be available to get the contracts in place quickly and they have settled after examining more information plus the comments to do an RFP process. So, while the State Board is moving forward on an approval process for this equipment, OGS is working to put in place a contract that based on whatever we approve would allow counties to purchase them. Their estimate to have those contracts in parallel with the work we are doing to have the contracts in place in July, we have strongly encouraged as early as possible to have those contracts in place, and anything we can do to help expedite that, we have offered.

Peter Kosinski: Counties can purchase themselves without going to the State?

Bob Brehm: As long as they meet whatever their local procurement. So, some…

Peter Kosinski: So, they don't have to wait for us to implement the program?

Bob Brehm: Correct. If they meet that requirement, their procurement requirement. So, some are looking at similar, you know, can you piggyback off of an existing contract? Can you do your own procurement? Some counties might be small enough that it's a de minimis, you know, under the threshold of what they are going to have to go out for public bidding. The only standard that we have is it has to be on the state list, and we are working to make that happen. I think that covers the breadth of what we are doing.

Todd Valentine: No, that's the basic... just of all the majors projects and the biggest challenges that we are facing is that, you know, like there is no money added for any of the new projects and as you have heard from Bob, we are going to have to at some point probably adjust our state cyber plan to reduce the amount of money that would of gone to the counties to cover our day-to-day expenses, because we can't find it in the money and trust me, we are looking diligently for every coin in the couch cushions and the funds are there so the agency will be fine but that will have an impact on the counties going forward.

Peter Kosinski: Okay, any questions? No? Okay, so we will move onto the Counsel's office, so Kim Galvin and Brian Quail.

Brian Quail: Thank you very much Commissioner. It has been a busy time in the Counsel's office and in the Compliance Unit. Obviously, the unit was involved in the preparation of the draft regulations that are before the Commissioners today. There was also a period of ballot access filing which engendered a number of questions from counties in terms of changes given the June Primary time frame. There were of course, specifications received by the board that were processed by the agency and the Counsel's office participated in that with other units.

In the area of case updates, one of the things I mentioned that we are not actually a party to this case, but the Court of Appeals is taking up oral argument on the ballot images being available from FOIL case, *Kosmider* Case. That is on May 1st. In *Common Cause*, we maintain a posture of depositions and discovery which will be ongoing for the next several weeks. In the *Sugarman v. NYSBOE* case, the matter has been submitted. Both sides have requested oral argument on the matter, but that has not been scheduled as of yet. Also, in the period since the last meeting, there

have been roughly eight ballot access related cases, none of which actually have anything to do with petitions that are filed here but involved the State Board as a necessary party or punitively as a necessary party in those proceedings. We also have a HAVA Administrative Complaint Hearing which will be occurring tomorrow, and we posted guidance with respect to loans by PACS or lobbyists to candidates or candidate committees to effectuate the change that was in the adopted budget.

The Compliance Unit training season has begun and has involved the training unit going to Dutchess, Westchester, and Orange counties and they have ten more trainings scheduled upcoming in May and four additional trainings in the month of June. Also the Compliance Unit has been working with filers to update emails in anticipation of the new web-based software system, which requires in order to use that system, that we have emails for the treasurers for authentication purposes and the IT Unit has begun training the compliance staff and BETA testing the software and so that is underway, as well as the 2018 Statewide and Legislative Audits. In the area of campaign finance disclosure reports filings, the update is that with respect to paid internet and digital advertisements, our running total is 134 filed from 92 different independent expenditure committees and of that number, we have, they have been, 110 of them have been posted to the State Board website.   The status of 2019 January Periodic failure-to-file is that there are 2,652 committees and 99% of those, as we had expected, remain outstanding. With respect to the 2018 July Periodic filing, 2,500 were referred; of those 2,171 or 87% remain outstanding. With respect to the 2018 January Periodic, 2,530 were referred and 72% of those, 1,822 outstanding. In the area of deficiencies, 113 remain referred; of that number 1,317 are still deficient, 184 have come into compliance.

Peter Kosinski: Brian, what is the timeframe of those deficiencies? Where did that come from?

Brian Quail: That deficiency number is from inception to now and in that number, a total of 2,650 were actually referred at some point or another, but 837 of them were reclassified as training as the criteria shifted overtime; so, the fair beginning number 1,813. And again, of that number, 384 have become compliant.

In terms of the aggregate work of the Compliance Unit, 121,767 filings have been received and they are keeping up with those very well; 111,795 have been completed in terms of their review.

In terms of Hearing Officer reports, there were six requests for a Hearing Officer last year, six the year before, and as of right now in 2019, the number is zero.

Peter Kosinski: Okay.
Kim Galvin: I just have one thing to add. If you remember the LLC law that went into effect required a breakout of ownership for attribution of the funds they gave., we are, some LLCs are starting to file their ownership interest so we are working, even though it's not due to December 31st, so we are working through some of the issues with creating a standardized form for them to file, so should any of them who are listening to us now, and we should have that forthcoming.

Peter Kosinski: And that is something that filer have to use in order to identify who their LLC is?

Kim Galvin: No, they have to do it all on their own apparently, because this isn't, the filers are required to break it out immediately upon receipt of the contribution and this form isn't due until December 31st of the year. So, if I'm a filer and I get an LLC contribution, I have to endeavor to find out who is the owner now to break it out.

Peter Kosinski: I see, so we won't have a database for them to use then to identify these?

Kim Galvin: Well, at the end of the year.

Peter Kosinski: But not when they file.

Kim Galvin: Right, correct.

Peter Kosinski: It seems backward.

Kim Galvin: Well, it's well, it was effective in seven days, so we were scrambling on that one.

Peter Kosinski: Okay. Any other questions? Okay, thank you. Then we'll move on to Election Operations, Tom Connolly and Brendan Lovullo.

Tom Connolly: Mr. Commissioner, with regard to the Primary election the number of filings that were received here at the State Board for both the 57th State Senate District and also Judicial Delegates and Alternates, there is a prima facie report for ballot access which is on the agenda for later on in this meeting. We have also drafted a certification for the June Primary. At present there will be a Republican Primary for the 57th Senate District and a number of Primaries in the 8th Judicial District for delegates and alternates, at least for those that file here at the State Board. We will also be preparing for receiving the designation of early voting poll sites from the counties since that due date is May 1st, coming up this week.

With regard to the voting machines for ES&S, SLI has completed their primary source code review and have submitted compliance builds to us to start testing. They have also started their secondary security analysis. We've also been working with NYSTEC for the secondary review of what SLI has done, so that is proceeding. With regard to Dominion, as requested at the last meeting, the unit did undertake an additional review of the ImageCast Evolution, of the ICE machine, in conjunction with the Dominion, SLI and NYSTEC. The results of that review have been provided to Commissioners and I believe it is on the Agenda under Old Business for further discussion.

And lastly, for ClearBallot, testing is expected to be completed in the next two to three weeks and then the idea would be, it would be brought before the Commissioners at the June or July Board Meeting for their modification.

And then lastly as Bob mentioned in regard to electronic poll books, that has been consuming a lot of our unit's time with regard to developing the security, the network, and the functional requirements. We did finalize those. We did provide those to the vendors that we were aware of.

We also provided information on our website. The applications for any vendor for an electronic poll book that wants to be evaluated for approval, the deadline is this Friday, May 3rd. There will then be a period of two weeks in which we are going to do some internal review of the documentation that is provided before we have in-person demos with the vendors towards the last two weeks of May and the expectation is we would be done with the evaluation process for at least this initial round; anyone who submits an application by the deadline by no later than the first week of June. Otherwise, that's largely it for me. Brendan?

Peter Kosinski: Any questions? From the Commissioners? No? Okay, and then we will move on to NVRA PIO [National Voter Registration Act / Public Information Office] John Conklin and Cheryl Couser.

John Conklin: That you Commissioner. The Public Information Office continues to be busy. Since the last meeting, the State budget was passed which gave us a number of new responsibilities. Hot topics since the last meeting include early voting, time off to vote, continuing changes to the signature requirements for the petition gathering period, independent petitions and signature requirements, always campaign finance, some cybersecurity issues that always pop up periodically in the national press, and then the possibility of public financing for campaigns and the public nature of voter registration records.

The unit participated in the monthly ECA call in April. We continue to be part of the meetings on the cybersecurity plans with regard to risk assessments and intrusion detection systems and managed security systems.

We processed 92 FOIL requests in March. With regard to the website, we posted as most other units have mentioned on their individual things, the Campaign Finance Handbook, and updated version of the Campaign Finance Handbook, the notice to filers regarding certain loans to candidates, a notice to e-poll book vendors, a notice to petition filers regarding the two day overnight delivery requirement, and lastly, the updated version of the time-off to vote notice for Section 3-110.

For NVRA, we didn't schedule any site visits since the last board meeting due to the petition process at the local level, so we left the counties alone for the last month.
With regard website accessibility, we continue to have meetings on completing the contract with our website accessibility vendor and we continue to plug away at making the documents on our website accessible.

With regard to the PIO's position in the Secure Election Center, we filled it, the last vacant position, at the beginning of April with a young man named Ryan Richmond, who joined has our staff. And lastly, we just launched the cyber hygiene training for 2019 to all the county boards and the state board staff. That's all I have. So, anything to add Cheryl?

Cheryl Couser: No.

Peter Kosinski: Okay, any questions of John or Cheryl? No? Alright. Thank you and then we will move on to ITU, Bill Cross.

Bill Cross: Good Afternoon Commissioners. I'll start with projects, CAPAS-FIDAS development continues with recent activity continued to be focused on the EFS or the electronic filing system, particularly testing and report development. We've also as was mentioned, reaching out to begin to gear up for training on the new system and working with the trainers. We also continue working on implementation of the portal for accessing the system, including multi-factor authentication. Last month we also provided a demo to the Commissioners for the public facing functionality of the system and we are currently defining a similar demonstration for interested external parties.

With regard to staffing, I am extremely happy to report we've hired two people to fill vacancies on the project. One of these people started last Friday and the other is scheduled to start on May 16th. That at least in terms of state staffing would be the first time it has been completely filled since I have been here. I'm very happy to report that.

We are continuing on target for a soft launch in July with the treasurer Beta group. This is still dependent on some factors including the data conversion effort, getting new staff up to speed, and of course, the budget, but we are hopeful.

In terms of NYSVoter, the State Board along with our project vendor, completed our first disaster recovery testing exercise on the weekend of April 13th, which involved failing all NYSVoter operations over to our Disaster Recovery Site and confirming our ability to run NYSVoter from that remote location should we ever have to and failing back. We did confirm our ability to operate remotely. Testing also identified several issues that still need to be addressed to make this process more efficient. We are working on those.

We are also continuing development of the new MOVE [Military & Overseas Voter Empowerment Act] application in-house. And as Bob mentioned and a couple of others, IT has been integral working with the Executive and other units on budget issues including estimates for the new technology costs associated with new initiatives, and while availability of state funds for critical projects and operations continues to be examined, we're aggressively moving forward with the Board's plan to secure our own election infrastructure utilizing the 2018 federal cyber funds.

We are also working on accessibility with PIO and other BOE units meeting the requirements accessibility lawsuit. We participated in the first administrative kick-off with Level Access, the vendor Level Access, and will be participating in the functional kick-off to be scheduled shortly, and working on developing projects to meet criteria defined in the lawsuit for December 2019, including PDF remediation on the website and updates to Voter Look-up, Election Night Reporting and of course, the new CAPAS FIDAS system.

Security continues to be our other major effort. Secure Election staff has worked with county IT and boards on cyber incidents. Since our last meeting, two additional counties have encountered incidents, malware incidents that necessitated our bringing down the NYSVoter connection as a precautionary measure. Both incidents have now been resolved and are back online. The Board's

Chief Information Security Officer is currently attending the MS-ISAC or Multistate Information Sharing & Analysis Center annual meeting in Denver this week with other state and local IT and election leaders across the country. In addition to multiple sessions on cybersecurity, he will be participating in a panel regarding election security and specifically New York State's efforts to assess and secure our election infrastructure in particular our county wide risk assessment work has gathered some attention and we will be sharing some details on lessons learned there.

Other county board cybersecurity efforts for the risk assessment, all 58 site visits have been completed as well as the first county report for Schoharie, the remaining reports are expected to be filed shortly. Intrusion detection systems have been installed on 54 counties across the state and we are now following up on the, with the remaining counties to ensure that they either have existing IDS capabilities and intrusion detection capabilities or facilitate installation of our offering of the Federal DHS Albert offering.

We are working with the managed security vendor to roll out the first three pilot installations and managed security services. Those are in progress. And as John mentioned, the Board has created the 2019 Cybersecurity Awareness Training Curriculum for state and county board staff, and notices should be rolling out as we speak, I believe, this week. The board is also now working on phase I of the NYSVoter Data Project with the SUNY Center for Technology and Government on a solution to detect abnormalities and data coming from the county boards and NYSVoter transactions and provide better analytics from that data. The first phase of that is us proving full transactional data to them from the system so they can establish what traditional base lines have been to compare to traffic going forward.

We also continue work on several security improvements on our own infrastructure. As I mentioned before when I spoke about the budget, including enhanced malware protections, multi-factor authentication for security, additional email security, as well as preparation for our own DHS risk assessment scheduled for late July.
In terms of website traffic and analytics - unremarkable, normal levels, approximately about 250,000 views a month for this time of year.

Peter Kosinski: Any questions for Bill? No, thank you. Next, we have Enforcement, Risa Sugarman. I note that she is not here today although I do believe she was invited. Correct? And I guess she is still refusing to come based on the litigation that is going on. Is that true?

Todd Valentine: That is correct.

Andy Spano: Where is the litigation now?

Brian Quail: The litigation is still pending and has been assigned to a Judge and both sides have requested oral argument and the Judge has as yet not scheduled it.

Kim Galvin: But all the papers are in.

Andy Spano: So, we are basically in the dark on what's going on in that department, outside of the statistics you gave us.

Brian Quail: Yes.

Peter Kosinski: Okay, well that completes the unit updates so with that, we will move on to Old Business. And we have one piece of Old Business which was regarding the security issue for the Dominion machine. I believe at the last meeting, the staff was instructed to meet with Dominion and NYSTEC and come up to a solution/resolution of the issues that were raised regarding the security of the machine, and I guess I'd ask if there is a report back from the staff on how that was handled?

Tom Connolly: Sure thing Commissioner. So, as was requested by the Commissioners at the March 19th Board Meeting, the Election Operations Unit engaged NYSTEC, SLI Compliance and Dominion Voting Systems to undertake additional review of the ImageCast Evolution system including but not limited to the security review performed by SLI as part of the original certification. The threat register documentation is provided in the technical data package through TDP by Dominion and any other documentation deemed relevant to the "design flaw" as identified originally by Professor Andrew Appel and subsequently raised by Commission Kellner in his March 7th memo. As a result of these efforts, it was determined that SLI security testing of the Dominion source code provided reasonable assurance that malicious code which could be triggered to enable the machine to print traditional marks on an already marked ballot is not present in the certified version. NYSTEC had originally determined that the level of risk for the proposed threat was considered "low" by the standards set forth by the National Institute of Standards and Technology, or NIST. It was then determined that additional compensating controls would lower the risk even further to the very low category, which is the lowest level of risk. As such, Dominion has submitted an updated threat register in their TDP, which now includes an entry for the "tampering with installed software", which addresses the specific risk and provides mitigating controls and should the Commissioners agree with the outcome of the review, the Election Operations Unit would update existing procedures to include a process for accessing the hardware counter for the printer as part of an audit process, and in addition, the poll site procedures would be modified to alert poll workers to be aware of the printer running when it should not be as an additional check.

Peter Kosinski: Okay, is there any further discussion regarding that report which staff agreed upon as a solution to the issue that was raised at the Board meeting? Go ahead Commissioner Kellner.

Commissioner Kellner: Can you hear me?

Peter Kosinski: Yes.

Commissioner Kellner: Thank you. I appreciate that the additional investigations were done by SLI and by NYSTEC, and in general, accept the conclusions particularly that of NYSTEC and the threat analysis that the actual threat is low, and, on that basis, I think that we should proceed as the staff has indicated. But I have a couple of comments on it, because there are parts of the analysis

that I think are misleading. The most important statement that I think is misleading is to say that they have analyzed their software to determine that there is no malicious software or source code contained in the approved source version, and I think that that misses the point of what we were talking about which is that with access to the machine, and insiders have access to the machine, that what is the possibility of installing malicious code and how difficult would it be for that malicious code to trigger the subroutines in the source code that would enable the printer function? And I believe that NYSTEC in fact did analyze that and came to a conclusion that the actual report summary doesn't explain that adequately and I think that a lot of people who read it then who are experienced with computer science issues, come to the conclusion that the examinations were not as robust as I believe they were.

So, I wanted to make that comment. And several people have written the Commissioners and we always appreciate those comments. Joseph Cannery, who is a PhD Computer Scientist who is on contract with DARPA and the Office of Naval Research on our security issues, make a very cogent suggestion which is that if Dominion is really concerned about allaying the fears of the public, then they should make one of their machines available for use at the DEFCON Election Workshop that is coming up soon. So, thank you for allowing me a minute to have those comments and I do appreciate the efforts that everyone has gone into to further investigate the vulnerabilities and I believe that the reports do provide some assurance that it would be extremely difficult to accomplish what Professors Appel and Demillo have pointed out.

Peter Kosinski: Thank you Commissioner. Are there any other comments by the Commissioners? Okay, I don't have any. I think we accept the report by the staff, and we appreciate all of your work and hopefully we can move on and continue with that process. Okay. That completes Old Business. I don't believe there is any other Old Business to come before the Board so we will move on to New Business. And the first of the New Business are ballot access rulings. We have been provided by the staff with a report of all petition challenges or findings by the staff regarding the sufficiency of the petitions filed at this office for this year's Primary Election and I have a report before us. Commissioner Kellner, I believe you have a copy of the report as well?

Commissioner Kellner: Yes, I do have the report.

Peter Kosinski: Okay.

Commissioner Kellner: I move the adoption of the staff report.

Peter Kosinski: So, I have a motion to adopt the staff report. Is there a second?

Gregory Peterson: Second:

Peter Kosinski: All in favor.

(Chorus of Ayes; 4-0)

Peter Kosinski: Opposed? So, the staff report is adopted as provided to the Commissioners. Next on our New Business Agenda, is the early voting regulations which were provided to the Commissioners by the staff. These are regulations regarding the implementation of early voting by the counties in New York and I believe these are emergency regulations that we are putting out today because of the timing and these will go out then as our regulations but then they will go through the normal process of being put out in the State Register, comment, and come back to us, and when will that come back to us?

Brian Quail: From the date of publication in the Register, they have to age for 60 days for public comments and then any time after that, they would come back, so Commissioner, our intention would be that as soon as that happens, at the first meeting after the aging process they would be back on the Agenda.

Peter Kosinski: So, we would expect later this summer they would come back for final approval? So, in the meantime, this would provide the counties with direction on how to implement the early voting for this Fall. We have, let's see, a couple different versions. Is that right?

Kim Galvin: Three separate….

Peter Kosinski: Three separate. Should we take these separately or take them individually or what does the Commissioners prerogative? We have three. There is one amendment to part 6210.19 regarding minimum number of required voting machines and privacy booths at early voting sites; there is 6210.18 relating to audits of voting machines at early voting sites, and then there is… I'm sorry, is there a third one, or just the two? I'm sorry, there's 6211 regarding early voting. And those three are before us. Do you want to take them as a package or individual? Alright, is there…

Commissioner Kellner: I have a question. In several places in the regulations there is a requirement that procedures or other documents be submitted for approval to the Co-Executive Directors. And in several places, there are deadlines for the Co-Executive Directors to approve or reject and I wonder if there has been discussion of what the default provision is if the Co-Executive Directors do not agree?

Peter Kosinski: I would direct that to the Co-Executive Directors. Have you considered that possibility that you two could not agree on a county's proposal and then what happens?

Gregory Peterson: How could that possibly happen?

Peter Kosinski: Mr. Spano doesn't see that possibly happening, but if it does, what would be the…

Bob Brehm: I think we would follow the same path that if the four Commissioners disagreed and our concern did we have to have a meeting at the Commissioner level or the staff level to move this documentation through. Certainly, it would be escalated to the Commissioners. I don't know what our dispute resolution effort would be if it's a 2 to 2 or 1 to 1 divide other than to try to resolve it. In some instances, we speak to, there is a plan in place….

Peter Kosinski: Well, I would think if I could speak to this for a second. I would think absent any other proposal that a failure to agree would mean the proposal is not adopted. So, if a county submitted something and the Co-Executive Directors could not agree on it, it would not be accepted, and that county would not have an accepted document to work off so then you would have to try to resolve it.

Andy Spano: Kick it up to the Commissioners?

Peter Kosinski: They could kick it up to the Commissioners and we could try to resolve it, it that makes sense, but I don't know, I mean timeliness I know is an issue here which is why the Co-Executive Directors are given this authority because we need timely action on these issues so we don't want to delay them either.

Todd Valentine: Well I would agree with that. It would extend, we can't change the statute because all we are doing is delegating authority that the Board would have in order to make a decision that would require a majority vote for the action to occur. All this did was for in order for the essence of time was you would now, in this instance alone, you would delegate that authority down to the Co-Executives. So, it would be the same process. We wouldn't be able to go forward so the answer would be, it's not accepted unless and it's only instances where the statute has reversed that where we have the default or it's good otherwise there has to be an agreement for it to go forward and be accepted. So we have not discussed specifically how we would, the mechanics for that but I don't see under the law how we could do anything other than that and certainly we can have an appeal process up to the Board, which we are not anticipating, but that's going to be a time issue because these are very short time frames that we are dealing with which is why you delegated in the regulations to us.

Peter Kosinski: So, Commissioner, I think the default would be it would be kicked up to the Board for us to resolve if the Co-Executive Directors can't resolve it.

Commissioner Kellner: Well, I agree with that. I would request that the staff can further clarify that when we adopt the final regulations, but I support the emergency regulations as they are drafted now.

Peter Kosinski: Okay, fair enough. Then I am going to propose that we take them as a package, all three of these early voting draft regulations for emergency adoptions. Is there a motion to adopt?

Andy Spano: So, moved.

Peter Kosinski: And a second?

Gregory Peterson: Second.

Peter Kosinski: All in favor?

(Chorus of ayes; 4-0).

Peter Kosinski: Opposed? I'm sorry, was that in favor? There is a unanimous Aye vote on all three of those proposed regulations. So that concludes those regulations. Next, we move on to the County Grant Program.

Kim Galvin: No, Contribution Limits.

Peter Kosinski: I'm sorry, what did I miss?

Andy Spano: Contribution Limits

Peter Kosinski: I don't have that. I don't have that. Sorry, I have the wrong, thank you. Contribution Limit regulations. Maybe you should explain that to us before we adopt that.

Brian Quail: Sure, this particular resolution is completing the adoption of the publication of campaign contribution limits that is required every four years when the contribution limits are by statute, automatically increased according to the CPI [Consumer Price Index]. The Board already adopted them on an emergency basis to permit the publication timely as required by law and now at this point, the Board is simply adopting the ongoing publication of those limits permanently until the next adjustment.

Peter Kosinski: So, is it fair to say that this is just administerial act that we conduct, not at our discretion, we just adopt them pursuant to statute?

Brian Quail: Yes.

Peter Kosinski: So, this is the final adoption of these. I'm sorry, Commissioner Kellner, do you have a question?

Commissioner Kellner: Yes, I agree it is a ministerial act, but am I correct about the part of the regulation that set the limits for New York City is actually different from the limits that are in effect because the court decision saying that the New York City law takes priority over the state law and I'm wondering if there should be a footnote or some advice to that affect in the regulation just as we put it on election calendar when the state law has been overridden by the local law?

Brian Quail: So, New York City has, pursuant to its home rule authority under the Charter, has adopted for races in New York City, lower limits. There are a couple of limits in 6214 that actually due to the superseding limits that the New York City has adopted are in fact, from the perspective of the regulated public, lower. So, the recommendation is that we provide some sort of annotation to that affect that would indicate to the regulated community that they should look to that body of law. We provide that same annotation on the political calendar now and I think the question would be, how would be best effectuate that? One easy way for us to effectuate that would be to simply place an annotation on our website next to these which would not require an actual change to the text of the regulation, or we would, and in our book that we publish, we would be able to put an asterisk. The third option would be that, or an additional option would be that we actually amend

the regulation. Are you suggesting an amendment to the regulation or just framing the regulation in terms of how the public sees it?

Commissioner Kellner: I'm suggesting an amendment to the regulation to add the asterisk and the asterisk would simply cite the local law and the reason for that is there's multiple source material that people look at, not just going to our website, but if they go the various codifications of the regulations that are online, either through Lexis or Westlaw or through the government websites, they wouldn't see it and then the annotation that would appear on our website wouldn't necessarily show up unless the annotation was part of the regulations. So, if we are taking the trouble to amend the regulation to bring it up to date with the new numbers, I would recommend that we start adding the asterisk.

Peter Kosinski: That makes sense to me. Is that acceptable to everybody?

Bob Brehm: Do the emergency regulations sunset and…

Nick Cartagena: They sunset within 90 days of when they were first, when they were first published.

Bob Brehm: So, should we consider adopting this set, so something is in place and then start the amendment process so that, I'm just…

Nick Cartagena: I think the question is whether...

Bob Brehm: ...follow with an amendment.

Nick Cartagena: So, I guess the question is whether this be considered a substantial amendment. Because if it's not, then we could just add that amendment now and publish it in its final form. Personally, it doesn't strike me as a substantial amendment.

Commissioner Kellner: I would argue it's not a substantial amendment to the law.

Peter Kosinski: I would agree. I think that is a fair reading of this unless someone here disagrees.

Kim Galvin: So, the motion would be to adopt this finally and then we will…

Peter Kosinski: With the asterisk amended.

Kim Galvin: With the asterisk referring to the city law.

Peter Kosinski: Correct, yes, and make this a final adoption.

Kim Galvin: Right.

Peter Kosinski: Is that acceptable to all concerned?

Gregory Peterson: Yes.

Peter Kosinski: So, the motion is to adopt these finally with the asterisk included and there has been a motion and a second. All in favor?

(Chorus of ayes; 4-0).

Peter Kosinski: Opposed? Okay, it's unanimously adopted as well. So those are finally adopted with the noted amendment. That completes that, so next is the County Grant's Program and this we have the grant program that was adopted in the State budget for our counties regarding early voting and also electronic poll books.

Todd Valentine: Correct. Chapter 53 of the State Budget and part of the Aid-to-Localities budget provided a $10 million fund which is to be made available to local boards of elections for reimbursements of cost related to the implementation of early voting and eligible expenses, which is pursuant to a plan which must also have the approval of the Division of Budget.

Peter Kosinski: Now do we have to adopt something formally here to disperse this money? I mean the $14 million as I understand it was statutorily determined how that would be distributed based on a formula or is that not true?

Todd Valentine: Oh, you are referring to the second chapter, which is Chapter 54, part of the Capital Projects that allowed for $14.7 million, which is made available to the local boards for initial technology costs for electronic poll books. Any amounts that the State Board may need for implementation of electronic poll books and the remaining funds are made available to the county for any eligible costs for electronic poll books, associated software, on-demand ballot printers, and obviously the cybersecurity software that goes around those items and those are the remaining funds that are based on a number of registered voters in the county. So, the, and there is no Division of Budget approval for that. It is essentially a formula with the one caveat that it is made for the initial technology costs and the remaining funds for the additional items that are available for the counties.

Peter Kosinski: So, let me understand what you're proposing. So, let's focus on that fund first. So, you're proposing that the distribution of this money be based on the number of poll sites…

Bob Brehm: Early voting poll sites…

Peter Kosinski: ... so you would, we would authorize a $15,000 allotment per early voting site for electronic poll books for that county?

Bob Brehm: The initial cost, they allow early E-poll books, ballot-on-demand printers, the software to operate the system and then E-security connectivity are authorized expenses under that capital fund. So, our first would be based on the number of sites actually selected by the counties which is due on May 1st. So, the plan is what we're asking consideration of not necessarily the chart that

gives you the dollars. That's our estimate based on some of the information we anticipate receiving. But once we get the counties to actually tell us the number of sites they've selected, we'll firm that up. So, we're recommending a $15,000 base amount for each site selected and then residual dollars to be approached and based on the February 1 registration table, proportionality. And with regard to the capital money, we do not yet have a firm number of what we think it will take to roll out at the state level, the examination of this equipment, but we're asking for initial just to set aside $700,000, assuming that it will be less than that, and then once that final accounting is done including those dollars also for the county. So, we would envision amending it once we know that number so that those additional dollars would be sent to the counties based on the same per capita apportioning.

Peter Kosinski: So, is it your anticipation that all the counties are going to be buying E-poll books? I mean I notice a number of our counties, in fact a large number are anticipating one early voting site and I'm expecting in those cases those counties don't really need electronic poll books to implement their early voting because they'll have the poll books there, all the poll books so they can just use their poll books instead of having an electronic version around the county. So, there's a chance those, I think a good chance many of those counties won't really need electronic poll books or want them.

Todd Valentine: Not everyone will need them initially.

Peter Kosinski: So if we're going to allocate the money if these counties, like they say it's like 29 that are only going with one site, are we still going to give them money for an electronic poll book even though they say, "We're not going to buy them because we don't need them" or how's it going to work?

Bob Brehm: When the state board asked the survey question that was requested of us the Senate and Assembly fiscal committees there were only about 4 or 5 counties that said they would plan on not using E-poll books this year. There may be other expenses they have that would qualify but these are capital funds that other counties, even though they thought that they would have one site still indicated a desire to have E-poll books. Our estimate and it's only an estimate because we don't have contracts in place yet is approximately $2500 for each E-poll book system at a poll site. We recommended a minimum of two because every poll site you go to have the book divided alphabetically in half anyway, that there's already an existing two services available at poll sites. So, a minimum of two, and an estimate of ballot-on-demand if it be needed of about, I think operational staff gave us an initial estimate, not having final contracts in place, of about $8000 for that printer. So, that's how we came up with some of the residuals...

Kim Galvin: And just to note that some of that bill hasn't been passed by the legislature yet that relates directly to that so that might account for some of the delay that some of the counties are having with regard to the numbers of those types of things that they need.

Bob Brehm: Well the law allowing E-poll books themselves wasn't signed until April 12th so we've been anticipating it passing it finally did on April 12th so now we can put some of this in place. So that was our estimate at the time they have two systems plus a ballot-on-demand if they need one

and some of the other support costs was an initial cost of $15,000 per site. That may vary, of course, for the larger sites and the smaller sites. It also takes into consideration those rural sites that may have no other source of money but because of geography they need more than one site even though they're not fitting into all of the other wording that requires it.

Peter Kosinski: Well my concern is that is you know a lot of these Upstate counties have identified one site and as you know, many of these are large geographic areas so while the statute required a minimum of 1 per 50,000 voters, in Upstate that's not really the issue. The issue isn't number of voters, its distance. It's an issue if I'm in many of these Upstate counties it not I have a lot of voters, it's just voters have to travel long distances if there's only going to be one site in that county. So, you know distributing the money and letting counties know you're going to get some help with your early voting site I think is important to them, as a message, so they know that they don't have fewer sites because they don't feel they can afford it. That I think it's important for us to tell them up front, we will help you fund your site to try to encourage them to open more sites, if they can, because these are large counties, large distances, not dense populations so the bill isn't going to drive them as far as how many sites they need, I think it's geography that should drive them. That you need to provide reasonable access to their voters within a large geographic area. So, I think it's important to get it out that if they open sites, we will help them. Because I know a lot of these counties have told us only one site but that may have been determined because they thought it would be too expensive for them to open up multiple sites. I would like us to have the ability to say to them, "Well if you do open up additional sites, we will help fund them." And I know we've got really two pots of money here that we can use, this pot and the other $10 million pot for early voting sites and I see that you have designated $15,000 out of each pot for each early voting site. So that would be $30,000 that a county could get in order to open up a site which I don't know if that's adequate to open and populate a site. I'm not sure that's quite enough money. I don't know exactly what the counties told you, it may depend on the county whether that's enough to purchase all the equipment they need, rent the building and provide personnel at the site for that lengthy 10-day period. But I would like to see it done in a way that the counties have an opportunity to know, if you open, here's what you're going to get, and then you make the decision locally, but we'll help you fund it.

Bob Brehm: With regard to the aid to localities portion the statute requires a plan approved by the Division of the Budget. One of the questions the Co-Executive Directors asked the Executive Chamber in the Division of the Budget was, how do they see that process working since it's money that goes through the State Board but it didn't require us to develop a plan, and the answer that we received was that they had asked us to recommend a plan so that's why the plan that we had put together is one that we are asking to recommend to them as something that accomplishes what I think you've articulated.

Peter Kosinski: Well here's my concern Bob, let me tell you my concern. My concern is that they are due to provide us with a number of sites by Wednesday, statutorily they've got a deadline that's looming very, very quickly where by Wednesday, I think we've only got a couple so far. So I just want to know that they have adequate information from us about our ability to help them before they decide, so we're not telling them afterwards oh, you're going to get this money and they already locked themselves into one site and are saying, we'll see if you had to me you were going to

give me $30,000 I would have opened a second site which I think a lot of these Upstate counties could be helpful. So, I'm just trying to figure out how we can make that work for them. I don't want to lock us into a way that, sorry we've already allocated the money it's gone we can't help you with another site now.

Kim Galvin: It's important that it's a reimbursement program too, I think, for them to know. They have to have the money to give out and then get it back.

Peter Kosinski: Fair enough. I understand. Maybe they can't do that. I understand this is really an unfunded mandate we've laid on these counties now after their budgets have already been in place because they have a January budget period so I know they're kind of caught short but I'd still like to be as helpful as we can and I'm just concerned about all these Upstate counties with these large geographic areas servicing with one site and are we making sure we're telling them we'll be helpful if we can to help you open sites if you want to. So, I don't know how we get that out there.

Bob Brehm: Well, if this plan is of a consensus that you approve, then we can certainly get it out today. It was generally discussed with the counties in the call with all the county boards of elections on Thursday of last week. We generally described a method where we would allocate, recommend allocating based on the number of sites.

Andy Spano: Did you give a number?

Bob Brehm: We talked in general terms of the number 15 but I don't we try not to presuppose what he'll do so we didn't want to get so far out in case you went in a different way.

Andy Spano: I think we should approve this, and you should go out and make that notification. It's an appropriate idea.

Peter Kosinski: Okay, do we have to approve something? Is this a motion and a second or are you okay with our discussion as far as how we're going to proceed?

Bob Brehm: I don't think we need a formal vote, but certainly if the four of you agree with this approach it's helpful to know.

Peter Kosinski: Okay any other discussion on that issue? No, okay then we will move onto the last item which is Management Confidential Salary Adjustments. I believe the Co-Executive Directors have to be approved by this Board for raises.

Andy Spano: And you have approved everyone else on the staff?

Todd Valentine: That's correct.

Peter Kosinski: And the rest of the staff is taken care of. Is there a motion to adopt a 2% raise for the Co-Executive Directors?

Gregory Peterson: I'll move.

Peter Kosinski: Second?

Andy Spano: Second.

Peter Kosinski: All in favor?

(Chorus of ayes; 4-0) And opposed? That is adopted. And that is the end of the meeting unless there's something else that needs to be brought before the Board today. Next Board meeting will have to be determined. Now I believe there's some need to meet in early June. Is that correct?

Todd Valentine: In order to make sure we have the approvals for the electronic poll book list in place.

Peter Kosinski: And do you have dates that you feel are necessary for us to meet?

Todd Valentine: It should be no later than the second week of June.

Peter Kosinski: No later than the second week.

Bob Brehm: Preferably the first week but the 3rd through the 7th is the first week, 10th through the 14th is the second week.

Peter Kosinski: How does the 6th look for people?

Andy Spano: I'm good.

Gregory Peterson: I'm good.

Peter Kosinski: Commissioner Kellner June 6th?

Douglas Kellner: I don't have a full calendar in front of me, but we could tentatively say that and if I have a problem, I'll let you know.

Peter Kosinski: Okay then we'll tentatively set it for Thursday, June 6th pending the approval by Commissioner Kellner. Alright with that said, if there is no other business to come before the Board, I'll entertain a motion to adjourn.

Andy Spano: So moved.

Gregory Peterson: Second.

Peter Kosinski: All in favor?

(Chorus of ayes; 4-0) thank you and we'll see you on June 6th.