

New York State Board of Election
Commissioners Meeting
May 3, 2018

Douglas Kellner: So, good afternoon everyone. My name is Douglas Kellner I'm the Co-Chair, and I'll call the meeting to order and introduce our fellow Commissioners.

Peter Kosinski: Peter Kosinski.

Gregory Peterson: Gregory Peterson.

Andy Spano: Andy Spano.

Douglas Kellner: Alright. I'd like to begin on a note to recall the memory of Anna Svizzero who died last week or two weeks ago. Anna serviced this Board nobly for many years and I'm sure we all mourn her passing and I call for a moment of silence in her honor. Thank you.

The first item on our agenda is approval of the minutes and the Executive minutes does anyone have any changes that they want to either of those documents?

Peter Kosinski: Adoption.

Douglas Kellner: Alright so we're adopting both the regular minutes and the Executive minutes. Those in favor say aye. [Chorus of ayes; 4-0] Opposed? The next item on our agenda are the unit updates. We'll start with our Co-Executive Directors, Robert Brehm and Todd Valentine.

Robert Brehm: It's been a busy time since you were here on April 5th and I think many of the items that we voted on under new business kind of will cover a lot of this subject matter but the petition filing challenge process was very busy for the entire building and even though we have recommendations on some that are invalid for one reason or the other, that usually gets the most attention but it was a very clean process. Most of the documents that we did receive were correct and the group that we have for you to review under New Business are really a small number compared to other times. So, I think that it is a reflection that people are doing a little better job with them. One item I think we've had for too long on the agenda, I'm sure IT will cover I won't take all of his thunder, but I want to at least thank Mr. Cross and his team. They finally were able to update the NYSVoter Conversion System. It became a little bit more complicated before Bill joined our team because in addition to upgrading the outdated equipment and software, we also were changing the entire computer system for the whole State Board and that was accomplished this weekend. That was a lot of work from a lot of people.

It's a little bit behind schedule but we are happy that we are on this side of its marking on our calendar and now we can finish the cleanup work on that and advance some of the other items a little bit further along on that list. So as far as the unit, that was a lot of work and I wanted to point that out. Certainly, we've had a few court challenges with regard to petitions, I'm sure we'll have a few more after we make

decisions today, but I think things are largely going well to get the federal primary underway with the recertification later today based on your decisions.

And the Cybersecurity, the Federal Election Assistance Commission did send notice out last week that we are ready to, they are ready for states to apply for the federal Help America Vote Act money to be used for Cybersecurity and after your review of the item in number C under New Business we can send that on behalf of the State of New York and get the money at least put into the State's official HAVA fund and then we can start working on implementing it. So those are the more broad items. Todd?

Todd Valentine: No, I think that covers everything Bob. The next step is we have the next call to update the county boards scheduled for Friday. We continue with our monthly calls and we meet with the leadership. We have a call with the leadership usually 2 days before to go over what agenda items they want to cover, what issues we have to cover.

Douglas Kellner: Okay so we'll move to our Counsels, Brian Quail and Kim Galvin.

Brian Quail: Thank you Commissioner. As the co-executive director said, it definitely has been a very busy just a little bit more than a month since the Board last met for both the Compliance Unit and the Counsel Unit. We have presently to report since the last meeting there were 5 new ballot access cases. Four of them remain pending with return dates between the 8th and 14th of this month and one of them was dismissed yesterday. So, we have four active ballot access cases presently. In other litigation matters, we were served in a new lawsuit in the Northern District a new federal lawsuit, the Upstate Jobs Party vs. the New York State Board of Elections. We prepared papers and responded to a motion for an injunction in that case and it is returnable before the court and oral argument on Monday in Syracuse.

Douglas Kellner: The principle issue with the Upstate Jobs case is what?

Brian Quail: The issues in the Upstate Jobs case involve treating independent bodies commensurate, this is the relief that has been sought by the plaintiffs, treating independent bodies or a particular independent body the same way that political parties are treated with respect to hard money contributions and the ability to have a housekeeping account. We are vigorously defending the statute.

In other cases, last month we went through the entire roster, this time just going to highlight significant changes in key status. In Merrill vs. Sliwa the appeal was perfected, and all the papers fully briefed, and the Appellate Division indicated they were going to grant preference and hear the appeal at some point in time during the May term. I don't believe that we know the exact date but that should come out in May and there should be a decision very soon from the Appellate Division in that case.

In Brennan Center vs. the New York State Board of Elections, the plaintiffs have moved for a leave of appeal in the Appellate Division to take that up to the Court of Appeals. In Eason, we are continuing to prepare for a trial which is presently scheduled to start the end of May if the case does not settle. And actually, I slightly fibbed, this next one there is absolutely no change in the status, Merced, we're continuing to await a decision on competing motions for summary judgment and we'll see what comes there.

With respect to the amendments to regulations or regulations that the Board advanced last month both were dully published, and comment periods remain open on both of those; the amendments to 6203 and 6215. We received one request for an advisory opinion and we are researching that question. Also, at the last meeting the Board indicated that with respect to a draft Bitcoin opinion, that we can send it out to various entities for comment. I think if you could speak to that.

Nick Cartagena: Regarding the Bitcoin...

Brian Quail: Who did we send it to?

Kim Galvin: DFS.

Nick Cartagena: We received, we solicited comments from the New York City Bar Election Law Committee of our Association. We solicited comment. We asked for comments from the New York State Bar Association and DFS and we received only a response from DFS. Essentially their comments consisted of them correcting some of our cites and our terminology in use of Bitcoins however they did not address or touch our conclusion or the analysis portion of the opinion.

Douglas Kellner: So where do we stand in terms of drafting it?

Nick Cartagena: I reviewed the DFS comments and I think they made sense, so I would suggest perhaps I could amend the opinion to, if it's...

Kim Galvin: We've been busy with other things that have come in.

Douglas Kellner: It's been a busy month.

Kim Galvin: Yes, so we can meet on that shortly and go over them. I don't know if we will wait for the other... or reach out or just deal with what we have and...

Douglas Kellner: I think you go ahead unless you know maybe I'll make a phone call to some of the people at the City Bar Election Law Committee and just say, "Are you going to do anything"?

Kim Galvin: Okay.

Douglas Kellner: They haven't told me they were or were not. Kim Galvin: Yeah, so we continue to work on that.

Peter Kosinski: Is DFS the...

Kim Galvin: Department of Financial Services.

Peter Kosinski: Right are they the ultimate source of information on Bitcoins?

Douglas Kellner: Well they regulate them within the state.

Peter Kosinski: Is there anybody else that regulates them or is it just them? Nick Cartagena: They are the only state entity that has regulatory authority.

Douglas Kellner: Sort of on a national basis they're the leader. There are very few other states that have regulations.

Peter Kosinski: So, did you take their comments to mean that they agreed with the substance of the opinion you sent them, and they only had...

Nick Cartagena: I would how I took it is that the only comments they had were technical and...

Peter Kosinski: You're assuming from that that they agreed. I haven't seen it.

Nick Cartagena: They had no issue.

Douglas Kellner: I read it that way. I have read their comments and I thought that since they did not address our substantive proposal, I interpreted that as acquiescence to it. But they did have constructive substantive changes in terms of terminology which I think we should...

Peter Kosinski: That's fine.

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Kim Galvin: And they also indicated that if we have further questions when we discuss it we need to contact the gentleman that they identified in the letter. We can do that regarding the ultimate conclusion if there's any question after a full review.

Brian Quail: They were kind enough to give us a red line version of the document back. I mean it was a very thorough analysis that they did.

Nick Cartagena: It really was.

Douglas Kellner: So, when they red line it without touching the substantive parts of it I would suggest that they're approving it or maybe the better word is acquiesce. Okay. I'm sorry for the interruption.

Peter Kosinski: Nick could you just send me the comments?

Nick Cartagena: Absolutely.

Brian Quail: And with respect to the numbers of filings that the Compliance Unit has received, we are at a number that is in terms of received getting tantalizingly close to 100,000. We're at 97,801 and 88,000 of those reviews have been completed, 88,154. Of those, 15,770 in the initial review were found deficient and 10,434 had training issues, and 61,950 were compliant.

Peter Kosinski: Brian what period of time are you taking about?

Brian Quail: That is since the inception of the unit. The aggregate numbers. And again, as I pointed out when we previously discussed this, some of these numbers don't add up with the number of referrals just because if a filing is found deficient in the initial review, it does not mean that it stays that way. And let's see.

Peter Kosinski: So that was September of 14? June.

Bob Brehm: June. Compliance began before Enforcement.

Peter Kosinski: So, June of '14. Okay.

Brian Quail: And we have not referred any additional deficiencies since the last meeting. They are working on a new crop of those to be referred as we speak. And that's anticipated to happen imminently. And with respect to...

Douglas Kellner: So, what is the number of outstanding deficiency referrals?

Brian Quail: 1,137 remain deficient.

Douglas Kellner: And on non-filers, what is the outstanding number of non-filers?

Brian Quail: I don't have the aggregate number with me but for the January 2018 filing as of the last run report which appears to have been a few days ago, 2,318 of them remain outstanding. And the initial number was 2,530.

Peter Kosinski: So, you're talking from the January? Brian Quail: The January 2018.

Peter Kosinski: How many total filers were there in January?

Brian Quail: I do not know. Certainly, we can get that information, we have around 14,000 active committees.

Peter Kosinski: They all have to file in January, right? It's a periodic, everybody's got to file in January. So, you're saying out of the 14,000 total filers 2,500 have not filed?

Brian Quail: Yes.

Douglas Kellner: 2,500 did not file but now it's down to 2,318.

Brian Quail: Yes.

Douglas Kellner: Alright anything else? So next is Election Operations, Tom Connolly and Brendan LoVullo.

Tom Connolly: Thank you Commissioner. With regard to elections we have the April 24th election not too long ago. It went largely smoothly happily. We did do election night reporting for that. We have so far received certifications from Suffolk County for the 5th and 10th Assembly District, Nassau for the 17th Assembly District and Erie for the 142nd Assembly District. Many of the other counties who had special elections are still working on the certification process. A number of them were opening absentee ballots this week and military ballots still have until next Monday to come back. We will prepare the documentation for the Board of Canvassers to be convened at the next meeting for certifying the 102nd and 107th. And with regard to the Federal Primary, obviously this was already mentioned, it has been a busy month with the filing period here. In total we received 119 petitions for Congress for representative

in Congress, 7 nominations and 2 petitions for US Senate, 72 acceptances, 63 authorizations and 1 declination. And then we also processed 63 general objections and 19 specific objections. Staff participated both in the working of the specs and also in the hearing process. We prepared the staff report which you will be voting on later on under Ballot Access Rulings. Then after that we have been working on preparing the certification for the Federal Primary which is due today from the State Board and we also distributed a calendar of all relevant dates and surveys that are required under our consent decree with the Department of Justice for military and overseas citizen voters. So that's been going out. And we'll be following up with all the counties throughout the process who have a primary, so we can report that data back to the DOJ.

In March we had put out the statewide certification for offices to be filled at the general, we will be distributing an amended version of that. There was a death in the 7th Judicial District so there will be one more justice vacancy there and then also Chapter 59 of the Laws of 2018 created an additional seat in the 9th through 13th Districts. So, we'll be amending the certification to note those additional seats.

On our voting machines we continue to work on the certification process of the Dominion ICE machine or the ImageCast Evolution. At this point we're looking to move towards functional testing. Hopefully that will be done towards the end of this month and we will be looking to have all the reports that we would need to bring to you sometime in July or August. In addition, ES&S has also had a conference call with some of our staff about submitting their Express Vote machine for certification. They anticipate doing that sometime in late fall. Beyond that, we continue to work with units and the Department of Homeland Security on Cybersecurity both on a plan that you will be looking at later and also the tabletop exercises that we've spoken about at previous meetings. We have been meeting with IT about the redevelopment of the CAPAS system. We have been continuing the process of documents related to the Shoebox funds. We have restarted our conversations with the Center for Civic Design on usability. We will be looking at a number of different topics, but we will be focusing first and foremost on ballot design and then we had mentioned that we were going to be meeting Brendan and I have met with Mark Lindeman on April 18th, who is from Columbia University, and our discussion was about an hour and a half on risk-limiting audits. Brendan did you have anything?

Brendan: Nope, that covers it.

Douglas Kellner: Thank you. I was pleased to hear you hit my two key things to check on which was usability and the status of audits so thank you. So, we'll turn to Public Information, John Conklin and Cheryl Couser.

John Conklin: Thank you Commissioner. The Public Information Office was very busy since the last meeting. We've received lots of calls and e-mails from the voters and the press about the special elections on April 24th, particularly the 102nd and 107th Assembly Districts. Questions about spec checking and the petition challenges for Congress. Questions about ballot access process with the state legislature. We have also received some questions about the Governor's Executive Order granting pardons to some parolees making them eligible to vote.

The unit also participated in the monthly ECA call in April. We've been part of the meetings on the internal cybersecurity review and assessment on the plan that's in your packet today. The unit processed 116 FOIL requests in April. We continue to participate in at least one of the lawsuits with the Counsel's office and IT. We assist in the planning for cybersecurity tabletop talk exercises that will begin at the end of the month with the Department of Homeland Security and some of the county boards and other state and local agencies.

For the website, we've posted election night results for the April 24th special elections. We posted for public comment the amendments to regulation part 6203, the webcast and transcript for the April 5th meeting has been posted, a 2018 elections results page has been created, and most of the documents that were related to the April 24th special elections have been moved from the home page to that page.

For NVRA there was a training in Manhattan for CUNY on April 11th which was very well attended. And lastly, the annual report is completed. You should have had copies available for you. Just it's not posted yet because I just want everybody to give it one last look over, so you may consider a final draft. If you see a mistake or something I overlooked, please let me know, we can make corrections, but it is in its final form as of right now. So, I think that's everything I have. Do you have anything to add Cheryl?

Cheryl Couser: No, thank you.

Douglas Kellner: Next is Information Technology, William Cross.

William Cross: Good afternoon Commissioners. I'll start off with projects. CAPAS-FIDAS as I've continued to report the work previously. We continue to work on filling positions for CAPAS-FIDAS. We've had difficulty. This month we've had some additional progress though the state recently held new exams for IT titles which now gives us a new and larger pool of candidates to canvass from, so we're taking advantage of that for at least 3 of the positions. We're also requesting additional contractor-based positions to make up the gaps that we've had, not being able to fill permanent positions but also the additional scope of the political ad legislation which will ultimately have to take some resources from that to implement a stopgap and build those into the final system. Overall, we remain on track on the

current schedule for development of CAPAS-FIDAS and development continues on EFS itemized, not itemized transactions, ballot access and data conversion.

For the political ad functionality, we're taking a 2-phase approach in creating a short-term solution. We've met internally to discuss what that will look like. Short-term solution to meet the legislative requirements in the timeframe that we have and then ultimately build out requirements of what that will look like in the final system for full functionality of the CAPAS- FIDAS. As Bob mention, I'm very happy to report that the NYSVoter application and databases were successfully migrated. It's been a project that's been going on, predates me but it's been one of my key focuses since I arrived to build out a whole new infrastructure and move that system to that. Get it off old hardware, old software, many of which were past end of life and no longer supported. A lot of additional security improvements, etc. There's still a lot of work to be done in terms of clean up and documentation of some final site testing but the heavy lift of it was accomplished last weekend. We also hope to move some of the other non-NYSVoter components such as our public website and some of these other pieces over to that new infrastructure as well in the coming weeks and months to take advantage of that. At the same time, we're now focusing on readying that whole new environment we just put together to pick it up and move it to a new data center. We've been working with the Office of IT Services, state office of IT Services to plan that. We now have a tentative move date set for the weekend of May 19th which at this point I think is doable. And we also continue progress on development of the in-house MOVE application.

In terms of cybersecurity, multiple efforts, IT Unit continues to work with the rest of BOE on planning the Secure Election Center implementation which is in your packet as well as various other security initiatives internally and for county board of election systems. IT is working with other BOE areas for the DHS Homeland Security Tabletop exercises planning, as well as we had applied for DHS to perform a full risk assessment of BOE systems and we're currently developing the parameters of what that engagement looks like, what they'll be scanning and how it will be done, etc. And BOE will also be speaking on the topic of "Securing Our Elections" at the New York State Local Government IT Directors Association spring conference on May 15th.

In terms of the website I think traffic main website has been normal averaging a little over 200,000-page views per month and we saw about 50,000-page views for the election night reporting related to the special election on the 24th.

Douglas Kellner: So, what's the current schedule for switching over to the new Campaign Finance Reporting System?

Bill Cross: The CAPAS-FIDAS Schedule still remains in April 2019. Like I said...what.

John Conklin: No, I'm sorry. You said no slippage.

Bill Cross: We, like I said, we had difficulty with resources, we're supplementing with contactors for the political ads which will impact it. Again, we're trying to supplement there as well and keep it on schedule. As of today, we're still remaining on schedule for it.

Douglas Kellner: Good. Alright and next report is from Enforcement, Risa Sugarman.

Risa Sugarman: The only thing I have to report commissioners is I have a new attorney starting today. We had a resignation and a new lawyer is starting today.

Douglas Kellner: Who is that?

Risa Sugarman: Ryan LaRose.

Douglas Kellner: We welcome Mr. Larose. So where do we stand now in dealing with the non-filers? So, you heard Mr. Quail indicate that the January non-filer referral was 2,318. Have you brought any proceedings against any of those non-filers?

Risa Sugarman: What we've done is the numbers break down in basic and I don't have the exact numbers in front of me. There were approximately 500 "A" filers, approximately 1600 "C" filers, the other numbers are candidates not committees. Since the last meeting, we've broken those down to reach out to those filers. We're doing it electronically. We planned on doing it 50 each week. So, we started with the "A" filers and sent out a blast e-mail the first 50. We got a very productive response so what we had to postpone sending out the second blast e-mail. As you know, I've said before, my desire is to bring people into compliance and not to bring them to bring compliance litigation. So, we're working on bringing those people into compliance and we'll be sending out a second notification by e-mail. Those who don't have a functioning e-mail we sent letters.

Douglas Kellner: So how many proceedings have you started?

Risa Sugarman: I have not.

Douglas Kellner: Pardon? Risa Sugarman: I have not.

Douglas Kellner: None. And with respect to the older non-filers from 2016 and 2017, have any proceedings been started against them?

Risa Sugarman: There have been criminal proceedings that we have worked that I have worked with the District Attorney's Office.

Douglas Kellner: And how many of those have...

Risa Sugarman: I don't have those in front of me. I don't...

Douglas Kellner: Obviously none of those have been referred to District Attorney's without going through the Commissioners, right?

Risa Sugarman: Well the District Attorney's Offices have original jurisdiction any referrals to the AG have gone through the Commissioners.

Douglas Kellner: And so, am I correct that the number is less than a dozen of the roughly 2,000 that were previous non-filers?

Risa Sugarman: That's probably accurate.

Douglas Kellner: And with respect to deficiencies, have you commenced any proceedings against the deficiencies that have been referred to you?

Risa Sugarman: The hearing officer cases that have been brought I think there are probably 25 or 30 have by-in-large I believe started out with deficiencies. I don't know that to be true.

Douglas Kellner: And that's since you have started?

Risa Sugarman: Yes, since September 2014. Well excuse me, the hearing officers started I believe they were hired at the end of 2015.

Douglas Kellner: And is it my understanding that there have only been two proceedings for hearing officers this year?

Risa Sugarman: Yes, so far.

Douglas Kellner: And criminal referrals this year so far?

Risa Sugarman: I don't discuss referrals in public sir.

Douglas Kellner: Well don't you have to bring them to the Commissioners? Risa Sugarman: Criminal referrals are not public, Commissioner.

Douglas Kellner: The number of referrals? I'm looking at my fellow Commissioners.

Peter Kosinski: Oh, for what purpose?

Douglas Kellner: Can we disclose the number...

Peter Kosinski: Oh, I don't see why not. I don't think that's confidential as far as I'm concerned. But you're asking the Enforcement Counsel.

Douglas Kellner: No, it's the four Commissioners that decide whether its confidential or not.

Peter Kosinski: I agree.

Gregory Peterson: The number certainly is not.

Peter Kosinski: I don't think the number is confidential.

Douglas Kellner: Am I correct that the number for this year is 1 so far?

Risa Sugarman: I've given you my answer Commissioner. I don't discuss...

Douglas Kellner: The Commissioners are asking you a question under the statute you're required to report.

Risa Sugarman: I don't believe that's true.

Douglas Kellner: Alright, so we'll move on then.

Peter Kosinski: Yeah, I would just note I was looking at your annual report and I did note that in context of your question earlier that number of I guess judgments you collected \$4,250 last year in new judgment, collections against non-filers.

Risa Sugarman: That sounds right. Peter Kosinski: And you collected 67...

Risa Sugarman: Well I don't know that that's only non-filers. That's the number of judgments.

Peter Kosinski: Okay and then you collected \$67,000 and change in old judgment.

Risa Sugarman: That sounds right.

Peter Kosinski: And those are from judgments that were obtained prior to your unit being created. So those are still coming in?

Risa Sugarman: Yes, when people who have judgments against them either try to refinance or sell their...

Peter Kosinski: Right cause there's a lien against their house and you're collecting those. You know just to put some context on it I'd say you had 4,000 new ones and 67,000 old ones. So that's sort of what I guess gives some indication of the activity in that context I think.

Douglas Kellner: Alright, any other questions? So next subject is Old Business. I don't think there is any Old Business. So, we'll turn to New Business and it starts with the Ballot Access Rulings. How do you want to present that to the Commissioners? Is there a report that we can just adopt?

Bob Brehm: There are three pages, it's a staff report on prima facie.

Todd Valentine: Yes, there is. There's a staff report.

Bob Brehm: It provides in the middle a brief description of the issue and in the right-hand column the staff recommendation of how to treat that particular issue.

Douglas Kellner: Does anyone want to be heard on the report? Mr. Buley is that why you're here?

Jeff Buley: No, actually I represent the Broadcasters.

Douglas Kellner: Oh, okay great.

Peter Kosinski: I would just move the report as presented to us by the staff and as a whole and move its adoption.

Douglas Kellner: Alright, those in favor say aye. [Chorus of ayes; 4-0] opposed? The report is adopted.

So next are the digital ad regulations. The draft was circulated to us. We've also received public comments. Mr. Buley if you want to give any remarks, I mean we've read what the New York State

Broadcaster's Association has submitted which are appreciated. They're very thorough comments. Some of those issues are not incorporated in this draft yet. But at least speaking for myself that the draft that we have today is not going to be what we ultimately adopt. It was to get something on the table so that we could start the publication process and solicit additional comments.

Peter Kosinski: Yeah, I tend to agree. I mean I think we're under a tight timeframe here and I think the idea was to meet that timeframe we needed to get something out there this month to get it in the Public Register so that we can start the formal process and we'd be entertaining comments during that 60-day period when it is out for publication. And once we get those in, we'd adopt them in a final form, probably I think we're shooting for maybe July, but I think we have to have them in place by August in order to meet the statute.

Douglas Kellner: I think August is probably more realistic...

Peter Kosinski: It probably is.

Douglas Kellner: ...and I think what will probably happen is we'll have an emergency regulation that we adopt in August and then we'll have to publish them.

Bob Brehm: Well if we make changes, if we envision making changes, they'll have to go back out for another 30-day public comment. We need to adopt regulations within 120 days of it being effective which is August 9th. And then the technology system that Mr. Cross is working on building with the advice of our staff needs to be in place 30 days after that date. So, it's an aggressive schedule so we would look to... and its 30 days after your regs, so we may need close on August 9th just to build it.

Kim Galvin: Yeah, just for clarification. We've met a lot. I think we've made great progress actually with this draft and the more you get into it the more you realize there's more to learning and to understand. So, for those listening, if they didn't quite understand what Mr. Brehm said, based upon some things that I've told people is we have every intention of doing what we can to put this regulation in final form by approaching the final day, however, like he indicated, any substantive change will have to go back out for comment. So, the emergency regulation would deem itself a placeholder while the public comment on the revised draft gets in place for final adoption. I think that's what he meant.

Douglas Kellner: That's my understanding too.

Kim Galvin: Not that we're just punting an issue and then going to pass an emergency reg.

Bob Brehm: On advice of Counsel...

Douglas Kellner: Now so both the Broadcasters Association and the News Publishers Association have sent us comments on the definition of "online platform". Where does this particular draft fall with respect to their comments and suggestions?

Nick Cartagena: And again, as we noted this is an effort to put something out. What we did is we looked at other proposals out there including the Honest Ad Act that's proposed in Congress in addition to proposals that are made in California and Maryland. Both the Honest Ads Act and the California Acts will define "online platforms" as basically anything that is self-political ads and 50 million unique monthly visitors. Maryland differed from that it was 100,000. We opted to go with the U.S., the Honest Ads Act model and the California model.

Douglas Kellner: Which is 50 million?

Nick Cartagena: Correct.

Douglas Kellner: And I think the Broadcasters Association were suggesting 130 million?

Peter Kosinski: I'm sorry, did you say Maryland had 100,000?

Nick Cartagena: Yes, that's correct. From 100,000 to 135...

Kim Galvin: Million.

Peter Kosinski: Oh it's 100 million? Maryland's is 100,000.

Kim Galvin: The range is 100,000 to 135 million.

Bill McCann: I think for more clarification, my recollection in Maryland it was unique to the state though. It wasn't visitors in the whole entirety of the country I think.

Douglas Kellner: How did they even determine that?

Kim Galvin: They can't.

Bill McCann: I don't know.

Douglas Kellner: Alright so our number is 50 million in this draft and the Broadcasters were proposing 130 million?

Kim Galvin: Yeah, the Broadcasters indicated at 135 million would capture the top 10 sites. That according to press releases and statements by the Executive seemed to be the primary focus. So, we've looked at that and talked with them a little bit and indicated that we would review their comments in-depth after this initial draft went out.

Nick Cartagena: And Maryland's rating 100 or more unique monthly US visitors. I mean 100,000 I apologize. But what I meant to reiterate is that it's US visitors.

Peter Kosinski: It's US, interesting...

Jeff Buley: The Broadcasters recognize the difficult timeframe you're working under and we also are aware of the complexity of the issue and we stand here to be a resource. Our proposal was largely gauged at trying to capture the larger users and based upon our understanding of the bad actors from the 2016 election, they utilize the larger platforms because not only are they larger, but they have the ability to tailor a political ad to an individual based upon their browser user history. So, if they see someone who is an NRA member visiting NRA sites or if there are a Green Peace advocate visiting Green Peace sites, they can send political messages only to that person and the veracity and efficacy of those messages are often in question.

Peter Kosinski: You're saying the smaller sites can't identify...

Jeff Buley: I can tell you the Broadcasters don't do that, the Broadcasters just do if they hit they take an ad or if they post like a commercial, let's say they have a commercial that's playing on their TV station. They put the same exact ad and...

Douglas Kellner: Who are the biggest broadcasters in the Association and how many hits do they get?

Jeff Buley: I don't have that number for you Commissioner. But we have Disney, CBS.

Douglas Kellner: So, my question would be, what's the difference between 50 million and 135 million? In other words, who would be included or excluded?

Jeff Buley: Yeah, I got that in the memo who would be included in the 1.3.

Douglas Kellner: Yes, I saw that. So, the question is if we go with 50 million how many other people are we including?

Jeff Buley: So maybe we could provide you a broader range of like businesses here. This is at 50 million.

Douglas Kellner: And so, the question is, where should we be drawing the line?

Kim Galvin: And there's also the issue with the broadcast, television stations and stuff that they're FCC regulated so it wouldn't fall under the purview of this political. They already require the...

Douglas Kellner: They're already exempted.

Kim Galvin: Right so some of them might not be affected unless they push that information to their online platforms, which we've talked about. So that gets into a little dicey area as well.

Nick Cartagena: I will note that in our regulations we do have a provision that states that if a broadcaster broadcasts a signal via airwaves or cable or satellite and they also happen to stream it via a website or some application like iTunes or Slingbox or something of that nature, that would not be considered an Internet or digital Internet advertisement.

Kim Galvin: Yeah if it's the same. If it's the same information that's transferred. But if their website also puts up these different types of political advertisements, they would be captured so we have to be careful how that's done. The way I see it and not to speak out of turn, but unfortunately, I've paid a lot of attention to this particular issue...

Douglas Kellner: It's fortunate. We're happy to have you.

Kim Galvin: I see main issues as the definition of a platform, the number of visitors there. We also have the ad advertisers that you know you can go to an ad agency and some things that I've learned and maybe the public listening would like to learn is they can push advertisements onto these various websites into a space they've like leased or bought but the ultimate platform owner would not even see or know that it was showing up on their website. So there has to be a way to require the ad advertisement agencies that do this to fall under the same capturing requirement because the online platform itself doesn't control it. And we have 120 days, there's no way everybody can change every system that they do, or nor do they have to. We have that issue. We have the "online platform" issue and we have well the IT issue and the 5-year retention requirement and what those things will look like because that takes up a lot of space obviously and what exactly we're going to do there. And I think those are the main...

Bob Brehm: Get another floor in the Zen building.

Kim Galvin: The main problems that we see other than what's written in the legislation itself which a lot of this draft regulation comes out of. So, it's a definite work in progress.

Douglas Kellner: Well it's great and I'm very glad that you were able to get this draft done for this meeting notwithstanding a very busy work load. So, does anyone have any further comments or are we ready to vote on it?

Peter Kosinski: I think we should put it out and get it out there for formal comments and see what else comes in beside what they've already given us.

Kim Galvin: It will be interesting to know as well that Facebook, I'm sure you've seen their press release, they're requiring all of the political advertisements to do attributions now.

Peter Kosinski: Oh, are they?

Kim Galvin: Yeah. They've taken it upon themselves. So, one of the differentiating things is this applies to IE only it's not candidate for political committees. So, it's going to be interesting to see if you see an ad that doesn't have an attribution, who put it there? Do they fall under this? So, it's another issue.

Peter Kosinski: How do you enforce that? How do you know that an ad out there has no attributions whether it's an independent entity doing it versus a candidate doing it?

Kim Galvin: I have no idea.

Peter Kosinski: So how is enforcement going to be? How would you pursue this? Would you, I'm probably asking too much. Would you ask a question about, "Okay we just saw this ad that doesn't have any attribution who is it"?

Douglas Kellner: Maybe it's a mistake of the statute that it should require attribution.

Kim Galvin: Well one of our requirements is that any independent expenditure committee shall obtain a copy of the registration documents that have been filed with the State Board of Elections. Now that seems to put the onus on the particular platform. Now what we've discussed, and you'll see in this draft, is a self-identifying line as well so that the independent expenditure committee has to say, kind of raise their hand and say, "Hey I'm covered by this". And the platform says, "Okay I need a copy of that" because it's not necessarily it was particularly in my opinion and agreed to that it's not necessarily fair

to have someone taking these sorts of ads to differentiate between a committee ad, an IE ad, a candidate ad, just a person out in the street's ad. So, there's a lot of issues to work through.

Douglas Kellner: That's a legislative issue.

Kim Galvin: That's a big legislative issue and I think that the earlier drafts may have contained more robust attribution language in it.

Douglas Kellner: So, don't be bashful when you're working on the regulation if you find a legislative gap like that, we should pass that onto the legislature.

Peter Kosinski: What's the penalty for not...

Kim Galvin: It's \$1000 an ad.

Peter Kosinski: Per ad and that's assessed against the entity that put the ad up?

Kim Galvin: No, it's assessed against the platform.

Peter Kosinski: Against the platform, so the platform has the liability not the entity that put the ad up?

Brian Quail: There's two issues; there is the failure of attribution is one thing, the other issue is the failure of, the only issue that the platform has is they don't get the registration document from the entity and then insure that the required attribution is there. But you would still have the issue of a potential enforcement against someone who knows they have an attribution requirement and doesn't place the attribution requirement regardless of whether or not they placed it on an online platform. Because the attribution requirements apply to all of these kinds of ads regardless of where they're placed. The platform issue deals with the obligation to obtain the registration documents from the independent expenditure committee and do verification.

Peter Kosinski: So, if I'm a platform and you come into me with an ad and say I want to put it on, do I then have to say I need your reg form from the State Board of Elections?

Kim Galvin: You do.

Peter Kosinski: And I have to then see whether you are required to put up attribution whether you're an independent entity or not? I have to put attribution up for you but not for you and I make that decision as the platform based on the registration documents the State Board has?

Brian Quail: One of the things that we attempted to do to address that issue is, because the statute places this obligation to get the registration document on the platform, and also on broadcasters separate and apart. And it requires them to get it and we realized that when you have 79 entities out of all the entities in the world that are going this that have that part of the requirement that apply to them, that there are some real practical issues.

Peter Kosinski: You're talking about 79 independent bodies.

Kim Galvin: Right now, that are currently registered here.

Peter Kosinski: So, there are only 79 bodies that have this obligation right now.

Brian Quail: So, the draft regulation includes a provision that requires the entity, obviously the entity knows that they are one of these things. Places an affirmative obligation on the entity to provide that information to the platform or to the broadcaster or to the satellite provider. But I think Commissioner that issue that you identify is one that we have to continue to bring about as we move through this process of having a workable framework that can be put in place in a way that's fair.

Kim Galvin: And one of the issues also to that point that was raised, I go, and I put up an ad and I provide my registration documents, and then I come back in 3 weeks and put up 100 ads, do I provide them again? Does my first time suffice? Does it require 100 times? Does it require 1 time? I mean these are some of the questions that people are asking that we have to work through.

Bill McCann: And I think also the issue of the attributions to the point of the confusion is that the statute only requires the attribution relative to Independent Expenditure Committees, not to other committees. They did make one significant modification, the attribution requirement used to only apply to an IE that was essentially over \$1000. And now they removed that threshold. So now every IE is required to have the attribution but regular ads, not IE ads, are not required.

Brian Quail: And on that point, I think it is important to note that there is still the statutory requirement that non-IE committees file their political communications with their post-election report and that requirement also certainly applies to these paid Internet and digital ads. So, there would not be that sort of in your real time filing with us with either the weekly or the 24-hour report but for the other committees there would still be a filing. So, after an election in terms of trying to differentiate between whether or not an ad was from a certain type of committee or a different type of committee there would at least be that resource.

Peter Kosinski: So, are we going to know who these platforms are that are going to be covered by this once this regulation is adopted? Is that our goal is to know who they are?

Kim Galvin: Well, we hope to although depending upon where you look, they have a different listing for I guess there are some paid firms that people have told me that I would suggest if it's true we should use. They're like the Nielson of television, they're the online people, and that you can get an official list of who meets what criteria.

Peter Kosinski: Who meets these thresholds. So ultimately, potentially we would know what platforms are covered by this regulation right?

Kim Galvin: Right, but for example, you and I could be looking at the same Facebook site and your ad could be on NRA and my ad could be on "Save the Trees" and you're the only one that ever sees yours and I'm the only one that ever sees mine, so depending upon who sees what who makes a complaint, who gets enforced against, I don't know what all of those varying issues are.

Peter Kosinski: Well I guess what I was thinking about was if we know who the platforms are, we could send the platforms our list of Independent entities and say to them if any of these come in to you and ask for an ad or want to put an ad up you've got to give attribution.

Kim Galvin: Right, there is no verification requirement in the statute other than that they shall obtain a copy of the form. There is no retention requirement in the statute for the platforms other than they shall take the form. So, we'd be creating...we are working through it all but we're,

Peter Kosinski: I understand...

Kim Galvin: It's difficult to sit in a room and not flip a burden in that the statute requires one person to have and not the other person.

Peter Kosinski: I'm just thinking if I'm the platform and I'm ultimately going to be penalized, and you walk in my door and say, "I want to put an ad up on your platform" I don't know whether you're an Independent Entity or not if I have a list from the State Board that we gave them, I could look down that list and say you're on it.

Kim Galvin: Well what we've agreed to do is post online, even though the statute doesn't require it, we've all agreed to post the 79 and the Reg docs in a separate spot so should a platform choose to double check it will be there.

Peter Kosinski: Yeah, if I'm working for that platform I want a source to go to to say this one needs attribution, this one doesn't, how do I know? I know because the State Board has a list of Independent

entities that have to do it where is the list? State Board has it, let me look at the list. If you're on the list I need the attribution. if you're not on the list, I don't.

Kim Galvin: Unless they go through an ad agency and the platform never sees it at all.

Brian Quail: Which actually is a separate issue and we've discussed this in some depth so I think it's worth calling out that we make an effort to finding an ad network in this draft because, at least in the way that I tentatively to look at this is that when you go to an entity and you buy an ad from that entity then that entity is separate and apart sources it out to other websites which simply provide a space to the ad network like Google Ads. In my view is that entity that is regulated by the number of unique visitors. In other words, how many impressions does their ad network generate obviously across innumerable different domains? And that goes back to your comment a moment ago Commissioner about the number of unique visitors. Because if you interpret a unique visitor to an ad network being someone who sees an ad on somebody else's website that has a feed from say Google Ads, metrics for that may be difficult. So, we have many interesting challenges to work through and it is however coming along rather nicely I think.

Risa Sugarman: Commissioner, I have a...

Andy Spano: What's the purpose of this? So, the attribution on it, the person sees it knows this guy did it or this organization did it right and they go, now we have all these other ads that have no attribution on it...

Kim Galvin: I agree. I agree.

Andy Spano: I mean and to make it easy for everybody, if you put an attribution on everything we don't have to go through this discussion.

Brian Quail: And actually, an attribution under this legislation is required on all of these paid Internet digital ads. I call them PIDAs and no one likes that, but I've said Paid Internet Digital Ad so many times in the last few weeks. Attribution is required on all of them regardless of whether or not it's an online platform. The online platform definition in prior drafts of legislation was more significant because in previous drafts of legislation it required the online platform to maintain the database. But it has turned into now the only separate requirement for the online platform that is different from what applies to all of these PIDAs is obtaining the registration document from the entity. But if you were the person placing the ad and you put it on a small website that has 500, let's not get too confused here, let's just to go 50,000 potential impressions, and it doesn't meet the definition of an online platform it still is a Paid Internet Digital Ad if you paid more than \$500 for it and you have to have the attribution.

Kim Galvin: Only for IEs, though.

Brian Quail: Yes.

Douglas Kellner: But that's the problem only for IE's.

Kim Galvin: Right, that's the differentiation.

Douglas Kellner: There may be ads without attribution that are legal because they're paid for by a candidate. And to me that's a gap in the statute that we ought to recommend that the legislature fill. So that all of these digital advertisements have attribution.

Bob Brehm: It was one of the recommendations that we had made testimony when we appeared before the Moreland Commission and it was in draft prior to this bill...

Kim Galvin: It was in prior drafts.

Douglas Kellner: All I'm suggesting is that as you work on the regs, draft the proposed statute for us to send to...

Kim Galvin: Certainly, my advice if I was counsel to any of these people is I would require an attribution on every political ad I put out.

Douglas Kellner: And all I'm suggesting is please write it up. I can't tell you where that goes in Article 14, but you probably know, and we should just draft a bill and review it and send it over to the legislature.

Risa Sugarman: May I just mention one thing? You said that the penalty is \$1000, it's a \$1000 or up to the cost of the ad. So just, it's not...

Peter Kosinski: Whichever is higher?

Risa Sugarman: Well it's either \$1000 or up to the cost of the ad that's what the statute says. So, it's not just a penalty of \$1000. And the cost of the ad is much more significant than the \$1000 penalty.

Kim Galvin: Well that depends too because a lot of these ads only cost a very small amount of money, 5, 10 bucks, 100 bucks.

Risa Sugarman: Maybe, but its misleading to just say its \$1000.

Douglas Kellner: Alright, so what's before us is Resolution 1806 to have the draft regulations posted for public comment.

Peter Kosinski: I move to put them out. Andy Spano: I'll second.

Douglas Kellner: Those in favor say aye. (Chorus of ayes; 4-0) opposed. The resolution is adopted.

The next item on the agenda is the proposed resolution approving the Cyber Security plan pursuant to the state fiscal year 2018/2019 budget. Since this also involves the use of the federal EAC funds, it requires a Commissioner vote and we have all the documents and they've been explained. Does anyone have any questions?

Todd Valentine: Just briefly so to get an understanding of what we're shooting at. This is "A Plan" so it's still going to involve more assistance from that and we've developed this plan as we said in the resolution, in consultation with both our federal partners at Homeland Security, the Election Assistance Commission, the General Services Administration in addition to the State Office for Information Technology, the Governor's Cyber Security Board as well as meeting with the Center for Technology and Government from SUNY and we've also sent people out to what's the Belfer Center which is a division of Harvard who is helping us develop the tabletop exercises as part of our plan. But the plan really has 4 parts to it. But there's a lot of pieces to the subparts but basically it's: assess the risks that are out there in the counties or assess the vulnerabilities in the counties; remediate those known vulnerabilities at both the state level and the county level or provide an avenue or a way for the counties to do that; monitor ongoing operations because we know going forward we have to see the traffic that comes in, the threats that change constantly; and then the final piece is being able to respond to the incidents that will at some point arise. So, it really boils down to building those four sections; one is not more important than the other. They all have to go forward kind of at the same time so that's why and part of it is responding to incidents as a tabletop exercise because that's something we can do now. The Department of Homeland Security is the one that developed that. We pick the sites. We've set up the regions for that and we've tried to spread it throughout the state where we were certainly going to encourage the counties in the past and at the next fall to come out to that. But it also means assessing the risks at the same time. So that's why Bill had mentioned earlier in his report about the Department of Homeland Security doing a cyber assessment of our system. But we also know that going forward we are not the experts in this. The major portion of the plan is to one of the first steps is to have somebody come in to help us assess where we need to go on our next step is to develop the regulations and flush this out going forward because we're bringing this plan to you now to begin the spending of the money. And as Bob pointed out, one of the things we do want to do immediately is to draw down all of the

federal money and it's not cause we're going to spend it right away it's because once we have it in the state accounts we start earning interest and we get to keep the interest. So, it's in our best interest to bring it into the state accounts. And those are already set up. There's a mechanism for that. that is one of the lessons we learned in rolling out the original HAVA plan was that there was a lot of, we needed to get help in developing the model we're using in developing our Voter Registration system, we brought in some help to help us assess what we needed to do, guided us through the procurement, and then helped us with the quality assurance on the back end. Voting systems was a more challenging aspect of that because of the nature of needing to get the machines in sooner but yet the standards were developed at the same time we're trying to do the procurement so the difference here is that the standards are more well-known because once you take elections, the concept that its elections out of the mix, the technology you're using its known, it's basically Internet, it's how things are connected. Those are known items, so we have a lot of guidance on that. But we're still going to need help to do that so. And what you're voting today is to begin spending both those accounts so that we can bring people on board, start to set up a hiring plan for the long-term, because as Bill points out, often it takes a lot time to get technology people through the state system in place in the Board either contractors or permanent employees, and then procuring the outside services we know we can't perform. And this is all at the same time we still have to run the June primary, the September primary, the November general election and the counties have the same responsibility so we're all trying to do the same thing. Doing as much as we can for this years' election and then certainly moving into 2020 to be in a better position for what we know will be a much larger election in 2020.

Peter Kosinski: So, let me see if I understand what is before us here. So, as I understand it there's a pot of \$24 ½ million that's available for this project right between federal and state money. So, this resolution would authorize the expenditure of \$6.25 of that 24 ½? Is that the way I am to read this? Is that correct?

Todd Valentine: We started with 25% of each of the funds as an estimate.

Peter Kosinski: And then are we also approving, you gave us some documents with some titles and job descriptions, are we approving the creation of these jobs, of these titles in the agency as well with this resolution and is that all part of this or how far along are we on that component of this? Are we like if we approve this money, poised to go out and hire people in these titles to help us with this?

Bob Brehm: We need your authorization. Next, we would need to take those titles and bring them to Civil Service to classify them.

Peter Kosinski: But do you need our approval now to get that moving and then you'd go to Civil Service and see if they...

Bob Brehm: Because the money to pay those titles requires your vote. So, I don't know if we would get Civil Service cooperation if we don't have the authority to spend the money.

Peter Kosinski: Okay so you've got a Chief, let me just understand, you've got a Chief Information Officer as a person to head. Are you creating a new unit here to do this, or do you put this under our current system or is this a brand-new unit that you're proposing we create within the Board?

Bob Brehm: It's not a new unit it's a combination I think if you look, it will take some coordinated effort but certainly from a technology point of view, it will fall under Mr. Cross who's here. He is the existing person, he's our Chief Information Officer.

Peter Kosinski: He is, he's right there.

Bob Brehm: We would bring in everybody identified we would bring in as a new position a Chief Information Security Officer. That person is more of a global policy implementer. Have a requirement to make sure that the state security system is in place but also oversee and answer questions as a source for county boards of elections who don't really have the depth of staff to be able to trouble shoot.

Peter Kosinski: I guess my question Bob before we go ahead, my question really is, are these titles something you created? Is this something that was recommended to us by Homeland Security or somebody who's doing this. How did these titles get this designation? Did somebody say to us, these are the titles you need to do this?

Bob Brehm: Certainly, the Chief Information Security has come to us from a lot of sources, including our conversations with the Governor's taskforce.

Douglas Kellner: Excuse me but should we start with the fact that the Governor proposed this Secure Operations Center in his State of the State and then has repeated it in his press releases about the budget.

Bob Brehm: The budget language requires ...

Douglas Kellner: The Secure Operation Center itself was a priority from the Executive.

Bob Brehm: So, what we look to do is there are points of contact, whether it be at the IT technology level, certainly NYSVoter and NVRA, we house them in the Public Information unit. So, if you just consider that unit's title, you wouldn't necessary from the outside think it would fit there, and we also had security related to the voting systems in Election Operations. So, our proposal to strengthen staff within each of those units of the agency with regard to the Secure Election Center, it would be the senior

staff for the state board and these additional people that depending on what the incident is, it might be technology, it might be oversight, it might be training. So, we each have a different responsibility, but it won't be a separate unit that that's all they do.

Peter Kosinski: Am I counting eight new positions? Bob Brehm: Nine.

Peter Kosinski: Nine new positions.

Andy Spano: Can I, Oh, I'm sorry....

Peter Kosinski: No, you go ahead.

Andy Spano: The Chief Information Officer, is this position exempt?

Kim Galvin: No.

Bob Brehm: Well, not currently...

Andy Spano: Well, you know what my position is, it should be exempt.

Bob Brehm: Well we have to get it classified from Civil Service and they're trying they're looking at other agencies that have had similar titles or similar job description State Information Technology Services has some similar titles.

Bob Brehm: I think they'll come back with that recommendation.

Andy Spano: Because if he's in charge and he's not exempt, he's going to have an exempt position under him.

Bob Brehm: Well, this proposal is he would be one step above and he would move to an exempt position and then he'd have that person under him. But we don't know the classification yet.

Peter Kosinski: So, I guess my follow up is if we create these positions, we currently have a \$25 million lump sum that we can expend but this is going to be an ongoing project I assume. This is not a one time we create it we do something, and we drop it. This is going to be a forever. So, we would then increase our budget? So, there would have to be an agreement that the State Board Election's budget is being increased by enough to cover these 9 new positions going forward as well? That's the idea here?

Bob Brehm: From our perspective, the \$5 million state fund is a 1-year state appropriation. The

\$20 million federal money is forever money whatever that word terms same as other Help America Vote Act funds. So certainly, we would need to target the one-year money as much as possible early because once we get to the end of the fiscal year if we weren't able...

Peter Kosinski: Well if you say its ongoing Bob its \$20 million, it's a one-time \$20 million it will last more than one year but it's not going to be \$20 million every year coming our way.

Bob Brehm: Correct.

Kim Galvin: Eventually you'd run out of money.

Bob Brehm: The \$5 million is only one-time money. If we don't spend it, we have to ...

Peter Kosinski: I get it, fair enough. So, you want to spend the state money first.

Bob Brehm: We want to spend the state money first. We've identified and had conversations with the state that they believe it's a multi-year commitment, but we still have to make that case and I do every chance I get but certainly the issue here, this plan that we're giving you tries to get us to January 2021. To get us beyond the next presidential election. We think we can cover this plan with this money until that time. If there are other resources that come in, another appropriation next fiscal year, then we'll adjust it. But I think we can support this in our plan until that period of time. We would need additional funds beyond that because it isn't once and its over responsibility. This is our responsibility.

Kim Galvin: Are you going to tell all those people when you're interviewing them?

Greg Peterson: You're here for a year or two....

Andy Spano: And the grant running out 3 years from now and having a very important program and have to go begging for the funds.

Douglas Kellner: Correct. That's it.

Bob Brehm: I beat my tambourine before the legislature and...

Peter Kosinski: Well the problem is to me it's hard to recruit people if you don't have any idea that they're going to be maintained. It's hard to recruit somebody to say, I've only got a 1-year commitment for your job, so I want you to come to my Board I want you to start this job, I'm hiring relatively high-level people because these are pretty high level. I want you to probably leave another high-level job to

come here but I can only guarantee you one year cause next year I don't know if I'm going to have money. That's a tough way to recruit.

Douglas Kellner: We're talking 3 years here. Bob Brehm: January 2021

Peter Kosinski: You're thinking you've got enough money for 3 years then to run the program between the state and federal money.

Bob Brehm: Correct.

Peter Kosinski: So, you can give somebody a 3-year commitment.

Douglas Kellner: Peter, your point is well taken.

Peter Kosinski: It's still tough because in this world you know I guess people are looking who isn't looking for longer. So, I can see its going to be a difficult job for probably Bill who's going to be doing most of the hiring.

Douglas Kellner: But on the positive side for the recruiting, at least the incumbent Governor is committed to this program.

Andy Spano: He's having trouble recruiting now.

Peter Kosinski: I know that's my concern, he's having trouble now how much trouble you going to have when you are faced with limits.

Bill Cross: Honestly most of my troubles are related to Civil Service titles not the exempt ones, I've got a lot more flexibility in terms of see what we need for key skills. My main restrictions are dealing with Civil Service.

Peter Kosinski: How many of these are exempt under this plan?

Bob Brehm: We don't know until they classify them but as many as possible would be better for us.

Peter Kosinski: Well it will because the flexibility is important I think.

Andy Spano: In Buffalo, we'll go there and hire a couple of those guys bring them in and let them try to break into all our services and then give us some advice. I said that facetiously but...

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Kim Galvin: That's what the FBI does and the CIA.

Andy Spano: You know I don't think any plan is any good without some element that constantly tries to break in the system.

Bill Cross: That is actually in the plan in terms of the risk assessments and penetration testing it is all included in there for us in making those services available to the counties.

Andy Spano: I don't think there's any other way to do it is to do it with this money, we don't have much choice.

Douglas Kellner: So, are we ready to vote on the resolution?

Andy Spano: I'll make the motion to accept it.

Gregory Peterson: I'll second it.

Douglas Kellner: Those in favor on adopting resolution 1807 say aye. (Chorus of ayes; 4-0)
Opposed? So, its adopted unanimously.

We have one item that is not on the agenda which is the motion to authorize the co-executive directors to receive the 2018 Uniform State Agency Management Confidential Salary Adjustments.

Andy Spano: So, moved.

Gregory Peterson: Seconded.

Douglas Kellner: Those in favor say aye. (Chorus of ayes; 4-0) Opposed? It's adopted unanimously. And I think the last is to discuss our next meeting date.

Peter Kosinski: We had a proposal I don't know you guys were talking about it, we were looking at June 26th which I know is primary date but...

Andy Spano: June 26th?

Peter Kosinski: Yeah that was the date we looked at.

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Douglas Kellner: Does that work for Todd and Bob because its primary day?

Peter Kosinski: I mean we're flexible that week.

Douglas Kellner: That's fine with me.

Kim Galvin: Where does that put us with our reg?

Bob Brehm: We wouldn't be ready for that, but we would need the second meeting if you could schedule that one also.

Peter Kosinski: Yeah, we were thinking early August, right?

Bob Brehm: It needs to be not later than the 8th.

Peter Kosinski: Okay we can do the 7th or the 8th which ever you want.

Andy Spano: Of what?

Peter Kosinski: Of August.

Douglas Kellner: Which do you prefer?

Bob Brehm: Either of those dates is fine for us. Andy Spano: 8th.

Douglas Kellner: 8th?

Bob Brehm: We always need every moment of the day with hearings we just finished hearings at about 1:00 yesterday for today's meeting and we didn't have as many.

Andy Spano: What happened to June 26th?

Peter Kosinski: Yeah, I think we're on, is June 26th okay first of all?

Todd Valentine: It's primary day I didn't realize that when I talked about it earlier. I just blocked it out.

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Bob Brehm: It's just hard if we got an issue that somebody needs to talk to anybody because we're locked in this room to answer questions, but certainly if that's the day you picked we will make it work.

Douglas Kellner: We'd be better on the 27th. Andy Spano: The 27th is okay with me.

Douglas Kellner: Or is the day after worse for you guys?

Todd Valentine: That's a little worse cause we'll be here probably till 1:00 or 2:00 in the morning.

Douglas Kellner: And everybody wants certifications and (everyone talking). And the 25th? That's a Monday. That's probably better for you.

Gregory Peterson: You want to do that?

Douglas Kellner: Alright so June 25th and August 8th. And I think that concludes our meeting.

Bob Brehm: For those of you who have our cyber plan there are elements in there that we would redact regarding public so...

Peter Kosinski: I'm sorry what do you want back? Douglas Kellner: The cyber security plan.

Bob Brehm: The Cyber security has elements that for your consideration, but the public version would have certain vulnerabilities redacted. So, we will have a redacted version for the public.

Douglas Kellner: Alright so with that do I have a motion to adjourn?

Peter Kosinski: Motion.

Andy Spano: No Executive Session?

Douglas Kellner: No Executive Session. Those in favor say aye? (Chorus of ayes; 4-0) We are adjourned.