Remarks of John Groh, Senior Vice President
Election Systems & Software (ES&S)

Good morning. My name is John Groh. I am a Senior Vice President of Election Systems & Software (ES&S).

ES&S appreciates the opportunity to provide the Secretary of State’s office and the public with important information about this issue. Election Systems & Software has the greatest respect for federal and state certification processes. We have a long history of working to comply with those extensive and thorough examinations of our voting technology. And, I can assure you, we are fully committed to working with the California Secretary of State’s Office to comply in the future and going forward with ALL California certification requirements defined by the Secretary of State.

Today, I would like to provide you with an overview of important facts about the certification of the AutoMARK voter assist terminals.

- First, I will give you a brief overview of our company.
- I will also provide some details about the AutoMARK technology and its positive impact on voters.
- I will also provide ES&S’ perspective about the processes established to qualify and certify voting systems at the federal and state levels.
- Finally, I will offer you timelines recapping important events in the certification processes.

Separately you will also hear from representatives of SysTest Labs – the independent testing authority charged with reviewing and testing voting systems. You will also hear from AutoMARK Technical Systems (ATS) – the makers of the AutoMARK technology.

I will then summarize and offer conclusions.
ES&S Position

Before we begin, let me summarize ES&S’ perspective on this matter. It is important for the people of California to know that:

- The AutoMARK voter assist terminal was and is federally qualified and California-certified.

- ATS made some “non-functional” – what the federal testing labs would consider “de minimis” modifications – to the AutoMARK hardware.

- The testing labs determined those hardware modifications did not affect the “form, fit, or function” of the terminals.

- And, as a result those hardware modifications were approved through the federal process. And, to make an important clarification, this situation did not involve any changes in software or firmware versions. All software and firmware versions in use in California have been certified for use in the state.

- The National Association of State Election Directors – or NASED – was the body charged with overseeing the federal level qualification process. NASED considered the hardware modifications to be part of an existing qualified and certified voting system. In other words, the federal process determined that the non-functional changes in hardware did not represent a new voting system or a system that required further federal testing.

- I will point out to you that California state evaluators were aware of the modified hardware through the normal course of seeking ES&S California State voting system certifications.

- Finally, the modified hardware was certified by the state as part of San Francisco’s voting system.
Our Company

Before we get into the details of this situation, let me talk for a moment about our company and our long standing commitment to federal and state level certification processes.

As a company, our core mission has always been to maintain voter confidence and enhance the voting experience for all voters. For more than 30 years, we have provided secure, accurate, and reliable voting solutions used by jurisdictions all over the United States.

In addition to our history of producing quality results, we have a long history of complying with federal and state certifications.

In fact, ES&S was the first company ever to receive certification of voting equipment under the very first federal standards. We were also the first company to receive certification of an end-to-end voting system under the 2002 Voluntary Voting System Standards. We take the subject of certification very seriously.

The AutoMARK Voter Assist Terminal

As you know, the field of elections was transformed with the passage of the Help America Vote Act or HAVA in 2002. Among many other changes, that act provides that all voters must be able to vote privately and independently via new accessible voting systems.

In light of HAVA, one of the most exciting forms of technology has been the AutoMARK Voter Assist Terminal. The AutoMARK is a ballot marking device that allows people with disabilities or other special needs to vote privately and independently when using optical scan paper ballots.

In April 2004, ES&S contracted with AutoMARK Technical Systems for the manufacture of the AutoMARK Voter Assist Terminal.

The AutoMARK does not tally or store votes, but it allows voters to mark the ballot. For example, a blind voter is able to take the paper optical scan ballot to the AutoMARK, where the voter can listen to ballot choices through headphones. The voter makes selections and the voter assist
terminal marks the ballot. The AutoMARK also allows the voter to re-insert his or her ballot and the AutoMARK will then read back to the voter the selections made. The voter will then take his or her ballot to the ballot box or a tabulator in the precinct, just as other voters are able to do – privately and independently.

The AutoMARK is providing many voters who have disabilities with a voting experience they simply have not had in the past. That is why we are proud to have worked with staff from the Secretary of State’s office to make this technology available to California voters.

As you can imagine, the AutoMARK has been extremely well received among voters and election officials across the country. Today, the AutoMARK is certified and installed in 29 states.

Federal Qualification Process

A key part of the issue here today is the federally established process for qualifying voting systems for certification. During the relevant time period, that process was overseen by NASED.

States relied on the NASED qualification to a large degree. Federal qualification includes extensive evaluation, testing and review conducted by independent testing authorities. Those federal reviews are comprehensive and very rigorous. They are designed to ensure that the voting hardware and systems meet the highest standards of accuracy, reliability, durability and security. In many cases those independent test labs spend months evaluating a voting system before reporting back to the NASED technical committee, where the system would then receive a NASED number documenting that the system was qualified for certification.

Independent Testing Authorities (ITAs)

The federal certification process relies on the independent testing authorities or ITAs. The ITAs have been approved and accredited by NASED and they conduct the extensive testing of voting systems. Under the process in place at the time, the ITAs provided detailed reports to NASED’s Technical Committee of experts on voting systems. Those experts review the testing labs reports and make a final determination about whether to qualify the voting systems.
Another important part of the ITAs’ responsibility is to consider and review any hardware modifications that are planned to voting systems that have already been qualified through the NASED process. To do so, the ITAs review the submission of what are called Engineering Change Requests or ECRs. After reviewing an ECR, it’s been the ITA’s responsibility to determine what action, if any, is needed. Again, the ITAs were authorized by NASED to determine the next steps when hardware modifications were made.

**Engineering Change Requests (ECRs)**

Let me provide a bit more detail about the use of ECRs. They are for planned modifications to hardware in voting systems that have already been extensively tested and qualified at the federal level. ECRs are used for modifications to hardware only. They do not involve proposed changes to software or firmware.

There are many things that may lead to the need for ECRs. They provide a process that allows independent testing labs to analyze these proposed hardware modifications. The modifications may be designed to improve the manufacturability and ease the performance of preventative maintenance of voting systems that have already been tested and qualified for certification. ECRs also deal with the supply of hardware components, including those components that are commercial off the shelf or COTS, those that are at the end of manufacturing supply life, and those that may be replaced by equivalent hardware parts.

If the ITA’s review of the submitted ECR finds that the proposed hardware modifications are “de minimis” -- or not involving or affecting the form, fit or function of the voting system – then the ITA’s view and standard practice has been that:

- No new voting system is created. The change involves de minimis changes to an already reviewed, approved and qualified voting system.
- There is no need for a new NASED qualification number.
- The previously qualified voting system is viewed as unchanged and unaffected.
After that de minimis determination, the historical practice of states, including California, has been that they did not require further action or notice of those changes.

**AutoMARK Phase 2 (A200)**

The ECR process is a part of the situation we are talking about today. In late 2005, ATS determined that some minor hardware modifications would make the AutoMARK easier for jurisdictions and vendors to service, while also increasing manufacturing efficiencies. At ES&S, we were aware of these changes, but ATS is here to provide you with more detail about them in a few minutes.

From the beginning, it was clear that these modifications would have no impact on the terminals’ functional operation, reliability, accuracy or security. They did not involve any changes or modifications to the firmware or software. And, certainly these changes had no impact on the manner in which votes were tabulated because the AutoMARK is not a tabulator.

ATS worked through the process established at that time and submitted the hardware modifications (labeled as AutoMARK Phase 2) to the independent testing lab (SysTest Labs) that had performed all of the testing on the AutoMARK Phase 1 hardware and qualified it for certification.

The testing lab reviewed the ECR changes and determined that two tests would need to be performed. Those tests were conducted. The Phase 2 AutoMARK completed those tests successfully and the testing lab, under its authority from NASED, determined that the modifications were de minimis and could be incorporated in the manufacturing process.

- No additional testing was required.
- No new NASED qualification number was required.
- The existing, already qualified and certified voting system was determined to be unaffected and unchanged. Thus, the Phase 2 AutoMARK is part of the existing NASED qualified system.
I’d like to share with you three separate time lines. First, I would like to provide you an overview of federal certification process.

**Federal Certification Timeline**

In June 2005 NASED provided a qualification number to a system that included Phase 1 AutoMARK hardware. This only occurs after an extremely detailed review and testing process conducted by the independent testing authorities.

In December 2005, engineering change requests submitted by ATS were evaluated by SysTest Labs, an independent testing authority. In January, some additional testing was completed and the independent testing authority determined that no additional action was required. That review meant that the modifications were part of the existing NASED qualified voting system. Accordingly, in March ATS began manufacturing the Phase 2 units.

**California Certification Timeline**

Next I would like to walk you through key events in the California certification process.

In August 2005, the AutoMARK was included as part of a voting system that received state certification. Again, that certification came only after extensive review and testing of the system.

In October 2006, the Secretary of State’s office issued a certification of a voting system that included the AutoMARK with the NASED/ITA approved hardware modifications.

**Awareness (Notification) Timeline**
At this time Brian Phillips from the independent testing authority, SysTest Labs is here to provide you with an overview of the process.

He will be followed by Gary Olivi from AutoMARK Technical Systems who will provide you with more information about the modifications and the process they followed.

Summary

Thank you Brian and Gary.

In summary:

- All of the AutoMARKs used in California are federally qualified and California-certified.

- The non-functional, de minimis hardware modifications were approved through the established federal process.

- NASED and the ITA considered these to be approved hardware modifications to an existing qualified and certified system.

- The historical practice of states, including California, was that they did not require notice of these changes and they were not considered a “change” to the voting system.

- As we’ve shown you, the Secretary of State’s office was fully aware of the hardware modifications, as ES&S submitted and used the Phase 1 and Phase 2 units during California certification events.

- In fact, the state actually used and evaluated Phase 2 units during San Francisco’s voting system certification. The voting system received a California certification.

- At no time has the federally qualified and California certified AutoMARK firmware changed as to any AutoMARK unit sold and deployed in California.
Conclusion

Our company has acted in good faith throughout this process and we have always complied with what we understood to be the state’s preferred practices and procedures relating to certification.

In no way, was any part of the voting system’s functional operation, accuracy, efficiency, or reliability altered, affected or in any way compromised. At no time were the California approved use procedures changed or modified.

Based on the additional information that we have provided today, we respectfully request that the Secretary of State’s office make a “no cause” determination.

ES&S appreciates the opportunity to provide the Secretary of State’s staff with important information about this issue. As we have informed you previously, we will certainly work closely with the staff of your office to address future certifications. Thank you for your time and consideration.