Indiana Election Commission
Minutes
December 6, 2021


Members Absent: Karen Celestino-Horseman, Member.

Staff Attending: J. Bradley King, Co-Director, Indiana Election Division of the Office of the Secretary of State (Election Division); Angela M. Nussmeyer, Co-Director of the Election Division; Matthew Kochevar, Co-General Counsel of the Election Division; Valerie Warycha, Co-General Counsel of the Election Division; Abbey Taylor, Campaign Finance staff, Election Division; Michelle Thompson, Campaign Finance staff, Election Division.

Others Attending: Dr. Jay Bagga; Mr. Marc Chatot; Mr. Greg Coy; Ms. Jen Dunbar; Mr. Tim Hallett; Mr. Walter Justus; Ms. Kelli Khuri; Ms. Joy Martin; Mr. Merle Milhaon; Mr. Clee Oliver; Mr. Ben Swartz.

1. Call to Order:

The Chair called the December 6, 2021 meeting of the Commission to order at 1:30 p.m. EST in Conference Rooms 4-5, Indiana Government Center South, 402 West Washington Street, Indianapolis.

2. Transaction of Commission Business:

The Commission proceeded to transact the business set forth in the Transcript of Proceedings for this meeting prepared by Laurie M. Morgan, RPR, of Stewart Richardson and Associates, which is incorporated by reference into these minutes.

The following corrections to the Transcript are made and incorporated by reference:

Page 8, line 6, replace “do picture” with “affix”.

Page 8, line 19, replace “representation” with “representative”.

Page 34, line 20, replace “CURRY” with “KHURI”.

Page 62, line 5, replace “KING” with “CLAYTOR”.

The Commission adjourned its meeting at 3:04 p.m. EST.
Respectfully submitted,

J. Bradley King  
Co-Director

Angela M. Nussmeyer  
Co-Director

APPROVED:

Paul Okeson, Chairman
In the Matter Of:
INDIANA ELECTION COMMISSION PUBLIC SESSION

Transcript of Proceeding
December 06, 2021

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INDIANA ELECTION COMMISSION

PUBLIC SESSION

Conducted on: December 6, 2021

Conducted at:
Indiana Government Center South
Conference Room 4-5
302 West Washington Street
Indianapolis, Indiana

A Stenographic Record by:
Laurie M. Morgan, RPR

STEWART RICHARDSON & ASSOCIATES
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APPEARANCES

INDIANA ELECTION COMMISSION:

Paul Okeson - Chairman
Suzannah Wilson Overholt - Vice Chairman
Michael Claytor - Proxy for Karen Celestino-Horseman
Litany Pyle - Member

INDIANA ELECTION DIVISION STAFF:

J. Bradley King - Co-Director
Angela M. Nussmeyer - Co-Director
Matthew Kochevar - Co-Counsel
Valerie Warycha - Co-Counsel
## INDEX

<table>
<thead>
<tr>
<th>Call to Order and Determination of Quorum</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Documentation of Compliance with Open Door Law</td>
<td>5</td>
</tr>
<tr>
<td>Approval of November 15, 2021 Commission Minutes</td>
<td>5</td>
</tr>
<tr>
<td>Ratification of Campaign Finance Settlement Agreements</td>
<td>6</td>
</tr>
<tr>
<td>Campaign Finance Enforcement Hearing</td>
<td>7</td>
</tr>
<tr>
<td>Voting System Technical Oversight Program: Voting System Recertification Applications – EVS 5.2.4.0</td>
<td>10</td>
</tr>
<tr>
<td>Public Comments – EVS 5.2.4.0</td>
<td>29</td>
</tr>
<tr>
<td>Voting System Recertification – EVS 6.0.4.0</td>
<td>37</td>
</tr>
<tr>
<td>Public Comments – EVS 6.0.4.0</td>
<td>44</td>
</tr>
</tbody>
</table>
CHAIRMAN OKESON: Let's go ahead and call the Indiana Election Commission to order Monday, December 6, 2021, roughly 1:30, here at Government Center South.

I note the following members present: Vice Chair Suzannah Wilson Overholt, Michael Claytor, who is serving as a proxy for Karen Celestino-Horseman, and Member Litany Pyle.

I also recognize Indiana Election Division Co-Directors Brad King and Angie Nussmeyer. And Co-Counselors Matthew Kochevar and Valerie Warycha.

I apologize for the delay in getting started. As you can see, we don't have our court reporter here, so we're going to record the meeting. We believe that person is en route, so we may jump off of the recording.

If you are going to speak, though, we would still ask that you say your name and spell it for the purpose of the recording and getting accurate minutes of the meeting. So I apologize for any inconvenience there.

Also, we have sign-in sheets. If you are planning on providing any testimony or wanting to speak today, please be sure that you sign in and provide the information requested.
Moving on I'd like to make sure that we have compliance with the Open Door Law. I request the co-directors confirm that.

MR. KING: Mr. Chairman, on behalf of myself and Co-Director Nussmeyer, I certify that notice of this meeting was given in compliance with the Indiana Open Door Law.

CHAIRMAN OKESON: Thank you. Moving on we'll do the approval of Commission meeting minutes from October 27, 2021. Co-Directors, please present the minutes.

MR. KING: Mr. Chairman, members of the Commission, actually, that's a reference to a previous set of minutes. The ones distributed I believe were for November 15, 2021.

CHAIRMAN OKESON: Okay. Wrong date. I recognize the minutes from November 15, 2021.

MR. KING: Those are recommended for approval by myself and Co-Director Nussmeyer.

CHAIRMAN OKESON: Is there a motion to approve the minutes from November 15, 2021, as presented?

VICE CHAIRMAN OVERHOLT: So moved.

CHAIRMAN OKESON: Second?

MS. PYLE: Second.
CHAIRMAN OKESON: Any discussion?

Hearing none, all those in favor signify by saying "Aye."

VICE CHAIRMAN OVERHOLT: Aye.

MS. PYLE: Aye.

MR. CLAYTOR: Aye.

CHAIRMAN OKESON: The "ayes" have it. The motion carries and the minutes are approved.

At this time I'd like any of those who are going to provide any testimony today please rise and take the administration of the oath from Mr. Kochevar.

MR. KOCHEVAR: All those who will be testifying before the Indiana Election Commission meeting today, please raise your right hand and say "I do" after recitation of the oath.

Do you solemnly swear or affirm the testimony you are about to give to the Indiana Election Commission is the truth, the whole truth, and nothing but the truth? Please say "I do."

ALL: I do.

CHAIRMAN OKESON: Thank you, Mr. Kochevar.

Moving on in the agenda, it looks like we have some unfinished campaign finance matters, ramification of finance settlement agreements.
We currently have no settlement agreements filed; is that correct? I recognize staff.

MS. THOMPSON: Correct.

CHAIRMAN OKESON: Since there are no agreements filed at this time, we'll move on to the next item of business, approval of campaign finance enforcement orders.

MS. THOMPSON: Yes, Mr. Chairman, members of the Commission, Orders 2021-307 through 2021-312 have been prepared for the actions taken at the November 15th meeting, and these orders are ready for adoption.

CHAIRMAN OKESON: Which ones are those?

MS. TAYLOR: They're not in your packet.

CHAIRMAN OKESON: Well, there you go.

Is there a motion to adopt the Orders 2021-307 through 2021-312 as presented?

VICE CHAIRMAN OVERHOLT: So moved.

CHAIRMAN OKESON: Is there a second?

MS. PYLE: Second.

CHAIRMAN OKESON: Hearing a second. Is there any discussion?

Hearing none, all those in favor signify by saying "Aye."

VICE CHAIRMAN OVERHOLT: Aye.
MS. PYLE: Aye.

MR. CLAYTOR: Aye.

CHAIRMAN OKESON: The ayes have it. The motion carries.

MR. KING: Mr. Chairman, could staff receive authorization from the Commission to do picture signature stamps?

CHAIRMAN OKESON: Yeah. Just by "consent" for signatures?

MR. CLAYTOR: Consent.

MS. PYLE: Consent.

VICE CHAIRMAN OVERHOLT: Consent.

MR. KING: Thank you.

CHAIRMAN OKESON: And we have one campaign finance hearing on Justus Rental Properties. The Commission has this enforcement hearing scheduled for today, an alleged excess corporate contribution by Justus Rental Properties. Is there a representation of that corporation present?

MR. JUSTUS: Yes.

CHAIRMAN OKESON: Would you like to come forward?

MR. JUSTUS: Yes.

MS. THOMPSON: Mr. Chairman, in your packet behind the campaign finance tab.
CHAIRMAN OKESON: Do you want to go through the option?

MR. JUSTUS: Could you go ahead and say them?

CHAIRMAN OKESON: Yeah. In the past before in these proceedings of the campaign finance enforcement actions, we have customarily given any committee or other entity present a final opportunity to pay a reduced civil penalty by waiving the right to present evidence or arguments to the Commission.

Of course, this corporation is welcome to present evidence and arguments for the proposed penalty to be waived or reduced, but this has been an opportunity to waive that presentation and accept a proposed fee.

Since this is the corporation's first violation, the arrangement would be for the committee to repay 25 percent of proposed fine.

If you would like to make a presentation and accept that, or we can move on.

MR. JUSTUS: Do you want me to explain the circumstances, or does it matter?

MS. THOMPSON: It doesn't matter if you just accept.

MR. JUSTUS: Okay. I'll accept.
CHAIRMAN OKESON: If you don't mind, say your name and spell it for the record.


CHAIRMAN OKESON: So is there a motion to approve 25 percent?

VICE CHAIRMAN OVERHOLT: Because I don't think we really approve the process, but, yes, I would move that we approve accepting 25 percent of the penalty plus mailing costs.

CHAIRMAN OKESON: There's a motion. Is there a second?

MS. PYLE: Second.

CHAIRMAN OKESON: Having a second. Any discussion? Any questions?

Hearing none, all those in favor signify by saying "Aye."

MS. PYLE: Aye.

MR. CLAYTOR: Aye.

VICE CHAIRMAN OVERHOLT: Aye.

CHAIRMAN OKESON: The "ayes" have it. Motion carries.

MR. JUSTUS: Thank you, folks.

CHAIRMAN OKESON: Moving on, application for certification of previously certified voting
systems. Election Systems & Software application for certification of voting system EVS 5.2.4.0.

The Chair will recognize the co-directors and their representatives from VSTOP to present the information regarding this matter. The Chair will then recognize any representatives of ES&S to testify regarding this matter and recognize any other interested party who wishes to testify regarding this matter.

As we noted, there's a sign-up sheet up here, so if you would like to talk, please make sure you fill that out.

Do I need to put the motion out first for discussion?

MR. KING: That's up to you.

CHAIRMAN OKESON: Do you want to do a motion? We'll just have discussion, I guess.

VICE CHAIRMAN OVERHOLT: For purposes of discussion, we would -- I'd move approval of the -- do you want to do each application separately?

So move the approval of the ES&S software EVS 5.2.4.0.

CHAIRMAN OKESON: And that would be for a term expiring October 1, 2025?

VICE CHAIRMAN OVERHOLT: Yes.
CHAIRMAN OKESON: Is there a second?

MS. PYLE: Second.

CHAIRMAN OKESON: Second.

Discussion, I'll turn it over to you.

MR. KING: Mr. Chairman and members of the Commission, in your binders, this particular application is behind the blue tab. There are three documents which others will explain in more detail.

The first is a report from VSTOP to the Election Commission regarding the application of ES&S for renewal of its EVS 5.2.4.0 voting system.

Following that lengthy report, there is a memo to the counties which currently use this system under Indiana Code 3-11-7-19. These counties were required to be notified of this pending application for renewal and to have the opportunity to present any comments.

And the final document is the required IEC-23 statement of electronic poll book or voting system vendor regarding foreign national ownership or control of vendor.

So each of those documents are present. And I'll defer to my counterpart, Co-Director Nussmeyer.
MS. NUSSMEYER: Thank you, Mr. King.

Just very quickly for our members, as an easier reference to the report itself, Attachment 4, there is a voting systems checklist, and it is a spreadsheet with all the state statutory references to what is required within each voting system and whether or not, as part of the field test that the system has passed or failed each of those checks.

So it would be an easier way for you all to digest whether or not the systems meet our state specific requirements beyond what might be in the Federal VVSG or the Voluntary Voting System Guidelines.

VSTOP also attached all of their test ballots so that you can see sample ballot layouts that they used as part of their field test to ensure that those ballots did in fact meet our state law requirements in the way that the ballots are meant to be laid out to ensure that there would be uniformity across the state for those using ballot card voting systems.

Thank you. I would defer to Mr. King if he wants to add more to my comments.

MR. KING: No, thank you.
CHAIRMAN OKESON: At this point in time I would recognize members of VSTOP. If you would, please introduce yourselves and speak into our high-tech microphone there. And if you don't mind spelling your name so we get it on the record.

MR. CHATOT: Sure.

CHAIRMAN OKESON: Thank you.

MR. CHATOT: So I'm Marc Chatot. M-A-R-C. C-H-A-T-O-T. And we will be presenting the EVS 5.2.4.0.

The EVS 5.2.4.0 is a paper-based, end-to-end election management system that supports jurisdictions election needs by creating and maintaining a central election database, formatting and printing of ballots, programming election equipment, and collection and reporting of results.

This system was certified by the U.S. Election Assistance Commission on June 5, 2018, and is compliant with the Voluntary Voting Systems Guidelines, VVSG 1.0. No changes or major features are being introduced by this voting system.

The voting system was reviewed and field-tested by using the Indiana Voting Systems Certification Protocol approved by the Indiana Election Commission on November 15, 2021.
The review and testing included all sections of the protocol, including the recent legislative requirements such as software hash verification and review of the complete ballot creation and deployment process.

Findings and Limitations: All DS200 systems sold and used in Indiana are produced with no modem or antenna installed. Additionally, the EMS does not include the software or commercial over-the-shelf items to allow modeming from a DS200 to ElectionWare.

The use of the two scanners, Symbol QR Code Scanner and the DS9208 and Zebra QR Scanner, are in compliance with the legal requirements for voters with disabilities.

CHAIRMAN OKESON: Commission Members, any questions?

VICE CHAIRMAN OVERHOLT: I did have a question. So when it says, "Any functionality related to the prohibited features shall be disabled, if possible," what mechanisms do we have in place -- or if the county purchases this software or this voting system, I mean what's available to them in terms of making sure that prohibited features are actually disabled?
It seems like that sentence should just say
they shall be disabled, period. The "if possible"
there seems a little odd to me.

CHAIRMAN OKESON: Is there someone from ES&S
here?

MS. NUSSMEYER: Mr. Chairman, if I might.

CHAIRMAN OKESON: Sure.

MS. NUSSMEYER: I believe what we're talking
about being disabled would be that commercial
off-the-self scanner. Correct?

MR. CHATOT: Yes.

MS. NUSSMEYER: So you are buying a product
off the shelf to be able to read a receipt tape
that's printed from the E-poll book, which includes
the ballot style only for the voter to walk over to
the DS200 so that that machine can auto pull up the
ballot on the DS200 touchscreen, for the voter then
to be able to vote, produce their ballot card, and
then walk over to the optical scan.

So what we're asking to be disabled is nothing
with the voting system per se. It is the scanner
that's purchased off the shelf, that although that
scanner can be used for other tasks, that any other
task related to it not be permitted.

MR. CHATOT: Yes.
MS. NUSSMEYER: I just wanted to provide additional context.

CHAIRMAN OKESON: So this is a recertification of an already existing software; correct?

MR. CHATOT: Yes.

MS. NUSSMEYER: So all the barcode scanner is doing is reading the QR code so that the system knows which ballot style to pull up on the ballot marking device.

CHAIRMAN OKESON: And change what's different; right?

MS. NUSSMEYER: It's not different.

VICE CHAIRMAN OVERHOLT: I'm just commenting on this language of "if possible."

So first of all this sentence, "Any functionality related to the prohibited features shall be disabled, if possible," so that's this whole paragraph just has to do with the scanners.

So what is the possible functionality -- I'm sorry. What is the prohibited feature that might possibly exist on these approved scanners?

MS. NUSSMEYER: To be clear, it is not the optical scan ballot part.

VICE CHAIRMAN OVERHOLT: I know that.

MS. NUSSMEYER: It's optional for a county to
use that. The poll worker can actually physically
go to the ballot marking device and enter the
ballot style number for it to be pulled up on the
screen.

And if ES&S is here and they would like to
speak more into this, I'm just basing it on
personal knowledge.

VICE CHAIRMAN OVERHOLT: Let's hear from ES&S.

MR. SWARTZ: I'm Ben Swartz from ES&S.

CHAIRMAN OKESON: Can you spell your name, please?

MR. SWARTZ: B-E-N. S-W-A-R-T-Z.

VICE CHAIRMAN OVERHOLT: Can you come up here
because of our technical difficulties we're having
today?

MR. SWARTZ: Yes, you summed it up perfectly.

So the barcode scanner that you're referencing
is just an add-on sale to the express vote. You
attach it via USB, and you have to install it. So
there are some special install procedures that you
have to do for it even to be enabled.

And it would also have to be enabled on the
poll book side. So the poll book would print that
receipt. It's actually not a QR code. It's a
128c barcode. It just has numbers, essentially.
And you take that over to the express vote, you'd scan it, and that would pull up your ballot style on the express vote.

VICE CHAIRMAN OVERHOLT: I'm just trying to figure out, maybe when people were drafting this report it could have been more carefully worded, quite frankly, because I think we've had discussions like this before.

What I'm really trying to get at is what are the prohibited features that need to be disabled on these scanners, if there are any? What are the prohibited features? Can they be disabled?

MR. SWARTZ: It's disabled by not installing it. Does that make sense?

VICE CHAIRMAN OVERHOLT: Yes. So to me that means if they're not installed, they were never there. Is that what you are saying?

MR. SWARTZ: Yes.

VICE CHAIRMAN OVERHOLT: So let me ask it this way. So does ES&S sell these scanners?

MR. SWARTZ: We do. I don't know about Indiana. Do you know specifically about Indiana?

MR. HALLETT: If what?

MR. SWARTZ: If we have any configured here in Indiana.
MR. HALLETT: Hi, my name is Tim Hallett. T-I-M. H-A-L-L-E-T-T. The scanners are used in Indiana.

VICE CHAIRMAN OVERHOLT: So the scanners are used in Indiana. Are you the ones who sell -- well, not you individually, but is it ES&S that is selling these scanners to the counties in Indiana that are using this voting system?

MR. HALLETT: It would be an add-on sale to the system.

VICE CHAIRMAN OVERHOLT: I'm sorry. I'm not meaning to be clever. So it's not that a county clerk decides to go to Wal-Mart and buy a scanner?

MR. HALLETT: No.

VICE CHAIRMAN OVERHOLT: So the scanner is also part of the certified voting system?

MR. HALLETT: Yes, that's correct.

VICE CHAIRMAN OVERHOLT: So if the county is buying -- decides they want the scanners, they get the scanners from you.

So when that scanner is delivered to the county clerk with the -- all the voting equipment, are there any prohibited features that exist on the scanners when they're delivered?

MR. HALLETT: We do have an option underneath
the admin to enable or disable it as well. So even
if you did have the barcode scanner installed,
let's say, it's like a little toggle or checkmark
that you would check, enable barcode or uncheck to
not or disable it.

VICE CHAIRMAN OVERHOLT: So what is it that
would be a prohibited feature? I'm sorry. Am I
just being really dense about this?

MS. NUSSMEYER: No, not at all.

CHAIRMAN OKESON: I'm with you.

VICE CHAIRMAN OVERHOLT: I'm trying to figure
this out. If we say, Okay, fine, we're going to
recertify your system, recertifying your system
means also then certifying the scanners, and we
have our requirements under Indiana law.

So what I'm trying to figure out is what is
the prohibited feature on those scanners that --
functionality. What is this sentence addressing?

MR. HALLETT: The scanner should only be
allowed to work with the barcode. There shouldn't
be any prohibited features included with the
scanner. The scanner is specifically certified to
be used with the barcode and that's it. So there's
no really prohibited --

MR. SWARTZ: So are you talking possibly any
VICE CHAIRMAN OVERHOLT: It just occurred to me. You didn't write this report. I'm putting you in the hot seat. Okay.

So, VSTOP folks, you wrote this report. What were you talking about in that sentence talking about the function -- what is the functionality of prohibited features that might exist on these scanners that we are -- that we would be certifying?

DR. BAGGA: Jay Bagga, co-director of VSTOP. B-A-G-G-A. We only want to recommend certification of the features for the 128c barcodes that are used for scanning of those codes.

If these scanners may have other functionality such as scanning other kinds of barcodes or QR codes, that's not the purpose of those scanners, so those are the prohibited features we don't want. We only want to allow certain features to be certified.

VICE CHAIRMAN OVERHOLT: Okay.

CHAIRMAN OKESON: So USB port, you load some drivers or whatever and connect the scanner to the system. Right? And it reads barcodes. And what I'm hearing you say is you want to limit that
functionality to the barcodes that are only in the system?

DR. BAGGA: Only of the 128c barcodes.

CHAIRMAN OKESON: But it could read other barcodes?

DR. BAGGA: It's a general-purpose scanner.

CHAIRMAN OKESON: So a point-of-sale system and a SKU and a barcode for inventory?

DR. BAGGA: Yes.

MR. SWARTZ: It would have to be the four-digit barcode that represents the ballot style as well.

CHAIRMAN OKESON: Basically we're saying that any use of that that's not authorized is prohibited, but I think the Vice Chair's question is what would be a prohibited use and how do you disable it?

VICE CHAIRMAN OVERHOLT: Right.

CHAIRMAN OKESON: What I'm hearing anyone say is you're not going -- you don't know, and you can't disable it, you're just not supposed to do it?

MR. SWARTZ: No. Well, if it doesn't recognize the barcode -- let's say there's nine digits representing the barcode. It won't pull
anything up. So it has to meet certain specifications.

CHAIRMAN OKESON: So there's a reason for the statement. I guess what we're getting at, there is a reason this was written in the report. We're just trying to understand if there is some other nefarious use or erroneous use of the barcode scanner that needs to be dealt with.

VICE CHAIRMAN OVERHOLT: The sentence before that says, "The use of any other features is prohibited, including scanning QR codes, ballot online, QR code and ExpressPass." So the use of any other features is prohibited including those things that are listed out.

So is -- I guess the thing -- so let me put it this way. So those prohibited features -- and I suppose there might be other prohibited features.

Are these scanners being -- when they are delivered to the counties, are they delivered so that those prohibited features are disabled?

MR. SWARTZ: That particular scanner only reads the 128c barcode. It only accepts four digits of the code.

VICE CHAIRMAN OVERHOLT: And then you said under admin there's a -- but there is a toggle that
someone with admin rights could change that?

MR. SWARTZ: No. They would basically turn on or off the scanner. The use of the scanner, you can turn it on and off.

CHAIRMAN OKESON: You have to have admin rights to turn it on?

MR. SWARTZ: Yes. It doesn't change the usage.

VICE CHAIRMAN OVERHOLT: So would it be accurate then to say that any functionality related to the prohibited features shall be disabled, period? Because from what you said, it is possible to disable those features and they will be disabled upon delivery.

MR. HALLETT: The disabilities of firmware issue in the scanner, it's the actual -- because a general-purpose scanner can scan, but there's firmware that's only allowed to scan the four digit code.

MR. SWARTZ: Yes. We have a configuration setting that we scan that barcode with upon delivery, or prior to delivery.

MS. NUSSMEYER: If I might just to help translate a little bit here as well. So when you go with the ES&S system and you check in, you're
presented a receipt tape, if the county wants to use the receipt tape to be able to pull something up on the ballot marking device.

If the county decides to move forward with that, then what I'm hearing from you is that the barcode that's printed on that receipt tape, only the scanner will have features enabled that will only read this barcode as your firmware would indicate. Right?

MR. SWARTZ: Correct.

MS. NUSSMEYER: When that ballot style pulls up, the voter votes on the touchscreen machine, but it also produces a ballot card, and that ballot card includes that person's precinct and ballot style designation.

So at any point in the process if the voter believes that they have the wrong ballot style that was pulled up by the receipt tape, then they would be able to correct that by spoiling their ballot and getting a new one issued.

And at that point the poll worker can even override, as I understand, using the scanner and pull up manually the ballot style on the ballot marking device.

VSTOP, as part of their field test, also
looked at your ballot marking device, because we
had recent changes in the state law that explicitly
state things like we have to know not just Q
numbers on the optical scan ballot card, we have to
know who that person selected. Correct?

And the voter will be able to review that
ballot card to see who, in fact, they voted for
before they then walk it over to the tabulator on
election day for it to be fed through the tabulator
or secured in an absentee envelope if it's
in-person absentee voting where they can't rescan.

I don't mean to ask leading questions. I want
to provide context and background for the people in
the audience and for all as well.

CHAIRMAN OKESON: So it sounds like the
statement about the "if possible," that sounds to
me like it's an unnecessary and inappropriate
caveat, because it is totally possible to disable
these functions that prohibited -- it is
possible -- it is definitely possible to disable
the prohibited features, so there shouldn't be any
question about whether it's possible or not.

MR. SWARTZ: That's fair.

MS. WARYCHA: Sorry to interject, but now we
have a court reporter. Just for her benefit going
forward, if everybody could just say and spell
their name while she gets accustomed to who
everybody is here for the next hour, because she's
not used to all of our faces.

VICE CHAIRMAN OVERHOLT: Okay.

CHAIRMAN OKESON: It appears since we're
making an edit to the way the report is written, we
need to amend the motion as written.

VICE CHAIRMAN OVERHOLT: Should we wait to
hear -- we're hearing other comments too; right?

CHAIRMAN OKESON: Yes, we are.

VICE CHAIRMAN OVERHOLT: So could we wait and
make a comprehensive amendment as necessary?

CHAIRMAN OKESON: Okay. I'll roll with that.

VICE CHAIRMAN OVERHOLT: Amending amendments
can get very messy.

CHAIRMAN OKESON: Okay. Is there anyone else
that would like to offer testimony?

MS. WARYCHA: Chairman, could you state your
name.

CHAIRMAN OKESON: Paul Okeson, O-K-E-S-O-N,
Chairman of the Indiana Election Commission.

Is there anybody else that would like to
provide testimony?

Is it Kelly Khuri? Karie Khuri?
MS. KHURI: Kelly. We're just in public comment section B right now; right? There's still going to be a D for the next system?

CHAIRMAN OKESON: Yeah. This is just for this particular motion on this particular voting system.

MS. KHURI: Okay. I'll hold up.

CHAIRMAN OKESON: Pardon me?

MS. KHURI: I'm going to wait.


MS. MARTIN: Where do you want me to stand?

CHAIRMAN OKESON: You are welcome to sit up here. And, again, please state your name and spell it for the court reporter.


CHAIRMAN OKESON: Before you begin, just to keep things moving, I'd like to limit it to about three minutes.

MS. MARTIN: Okay. Sure. These systems that we're talking about all have no visibility to the user. They just have visibility to a person in the know.

And I'm going to relate that back to when I was teaching, I had a science class, and every person had different assignments given to them, and they were laid out in my book where no one could
see them.

So in order to help each person understand where their grade was, I posted all their grades on the wall with a unique serial number only known to that person so they could visually see all the way across how their grades were as it went through the semester, and they could see from beginning to end that their grade was what it should have been.

In all of these cases that we're talking about, there's ways to enable or disable, enable or disable. We have no confirmation, as a voter going out to a system, that it's not been enabled or the disabled function has not been removed. We have nothing.

I could bring an IT guy with me, but you'd probably need an hour to look at all of the possibilities that he could think of, not to mention all of the back doors that are in that system inherently, because let me tell you, every program has a back door. You may not know what that door is, where it is, how to get to it, but somebody does.

So we have no way to secure these systems no matter what. They're electronic. They're not visible. No one can see them. And the only way we
can have a secure system is if it's accountable, and that's to paper ballots.

VICE CHAIRMAN OVERHOLT: Ms. Martin, before you leave, you are a resident of Brown County?

MS. MARTIN: Yes, I am.

VICE CHAIRMAN OVERHOLT: So they actually use a Unisyn system, just so you know, not an ES&S system.

MS. MARTIN: We're getting new poll books.

VICE CHAIRMAN OVERHOLT: We aren't talking about new poll books today. I just thought I'd let you know the name of the system in your county is Unisyn.

MS. MARTIN: And they are all programmed, and they are all able to go on the internet at will to the person setting them up.

VICE CHAIRMAN OVERHOLT: I just wanted to let you know it's not an ES&S system.

MS. MARTIN: They are all bad systems. I have programmed computers before. I know how to do it. I know how it's done. And I do not trust them.

CHAIRMAN OKESON: Thank you for your testimony.

MS. MARTIN: Thank you.

CHAIRMAN OKESON: Jen Dunbar.

Thank you. Hi. How are you today? Thanks for allowing public comments. We appreciate it.

CHAIRMAN OKESON: You're welcome.

MS. DUNBAR: I come here for love of all Hoosiers and everyone. I want everyone to vote and everyone to have their vote counted accurately. So that's where my heart is, so thank you. Another shout out to Brad King for his wonderful history on election voting.

We used to vote by voice. We would have to go out and shout out -- can you imagine that? But now we want -- we vote in secret, but we should count in the open. Counting should be transparent and open.

So that's what I was going to talk a little bit about, that I feel -- you know, there's eight people here. If I gave all of you a ballot and you filled it out and you put it -- you know, secretly so I don't see what it is, you folded it and put it in a big basket here, and we all counted out and there were eight ballots, we would have faith, I think all of us, in that.

Now compare that to our current system where we have e-poll books, which are all connected to
the Internet.

In 2018, ES&S broke federal and state law, and I didn't see anything about what happened to them after that. There was no punishment. There was no fine. I could have missed that, but I didn't see that. So that was one thing.

We had people on a different system, not on MicroVote, in Starke County on e-poll books mobbing on California ballots here in Indiana, because they're connected to the Internet. So that was one thing.

And then we take it to ballot marking devices, which are not honorable after the election. You have to do it during the election if you want to. So that was the other thing.

And then we take it to a tabulator, which may or may not be connected to the Internet. NBC, last year Cynthia McFadden did a report on ES&S, and they found here in Indiana they were connected to the Internet. So I don't know how that was possible.

Did you hear about that? I just didn't know how that was possible, because I thought they always say they're not connected to the Internet. So that was the other thing.
I think between those two systems where you had eight paper ballots, we all count in the open, versus the systems that are so rapidly changing and complex, that the laws can't keep up.

And there's a valiant effort trying to make sure that they're legal, but I think we have like quantum computing and on and on and on that I don't think will ever keep up to make sure that our vote is safe and transparent.

I think that's all. Thank you.

CHAIRMAN OKESON: Thank you for your comments.

VICE CHAIRMAN OVERHOLT: Ms. Dunbar, you live in Hamilton County?

MS. DUNBAR: I do, yes. We have MicroVote.

CHAIRMAN OKESON: That's all I have signed up. Anyone else?

MR. MILHOAN: It's for a different system.

CHAIRMAN OKESON: The sign-up sheet is for the software systems being approved.

MS. CURRY: We don't know the different systems.

CHAIRMAN OKESON: Hold on. Since you made a comment, will you just give your name and spell it.

MR. OLIVER: Could I go ahead and do mine?

CHAIRMAN OKESON: Did you sign up?

MR. OLIVER: I did on the other sheet, but...

CHAIRMAN OKESON: We'll wait until we get to that matter. You'll have a chance.

We've had questions and discussions, so now we have to amend --

MR. KING: You still have to make a change that incorporates the staff report.

CHAIRMAN OKESON: So are we amending of the writing of the report to take out the words "if possible"?

VICE CHAIRMAN OVERHOLT: Yes. So I was the one who made the motion; right?

CHAIRMAN OKESON: Yes.


So I would move approval of the ES&S EVS 5.2.4.0, renewal of that certification. And accepting VSTOP's report with the modification on page 4 of the report that -- under Findings and Limitations, the second bullet, to delete -- at the end of that paragraph, delete "comma if possible."
CHAIRMAN OKESON: So that stands as the motion. Do we have a second?


CHAIRMAN OKESON: Any discussion on the amended motion?

Hearing none, all those in favor signify by saying "Aye."

VICE CHAIRMAN OVERHOLT: Aye.

MS. PYLE: Aye.

MR. CLAYTOR: Aye.

CHAIRMAN OKESON: The ayes have it. The motion carries.

Now we have to do a motion to adopt it as amended. Is there a motion?

VICE CHAIRMAN OVERHOLT: I would move to adopt the ES&S report as amended.

MS. PYLE: Second.

CHAIRMAN OKESON: Any discussion?

Hearing none, all those in favor signify by saying "Aye."

VICE CHAIRMAN OVERHOLT: Aye.

MS. PYLE: Aye.

MR. CLAYTOR: Aye.

CHAIRMAN OKESON: The "ayes" have it. The
motion carries.

Moving on to the next item, Election Systems & Software application for certification of voting system EVS 6.0.4.0. And we'll again recognize co-directors Brad King and Angie Nussmeyer.

MR. KING: Mr. Chairman, members of the Commission, Brad King, the co-director of the Indiana Election Commission. B-R-A-D. K-I-N-G.

Behind the orange tab in your binders are the same three documents as the previous system. The first is the VSTOP report regarding the application for renewal of ES&S's EVS 6.0.4.0 voting system application.

Following that lengthy document, there is a memo addressed to the one county in this case, Howard, that is in the process of implementing use of this particular system, advising them of the county's right under Indiana Code 3-11-7-19 to provide comments regarding the system.

And then finally the IEC-23 statement of foreign ownership or interest control.

CHAIRMAN OKESON: And I'm going to go ahead and offer a motion to approve and get it seconded so we can have testimony and discussion.

So for purposes of that I move the application
submitted by ES&S for recertification of EVS 6.0.4.0 voting system be approved for marketing and use in Indiana, with the term expiring October 1, 2025, with the restrictions set forth in the report submitted by VSTOP.

MR. CLAYTOR: Second.

CHAIRMAN OKESON: Thank you.


CHAIRMAN OKESON: With that we'll move forward with discussion.


The EVS 6.0.4.0 is a paper-based, end-to-end election management system that supports jurisdictions election needs by creating and maintaining a central election database, formatting and printing of ballots, programming election equipment, and collection and reporting of results.

This system was certified by the U.S. Election Assistance Commission on May 3, 2019, and is compliant with the Voluntary Voting System Guidelines, VVSG 1.0. No changes or major features are being introduced by this voting system.

This voting system was reviewed and field-tested by using the Indiana Voting Systems
Certification Protocol approved by the Indiana Election Commission on November 15, 2021.

The review and testing included all sections of the protocol, including the recent legislative requirements such as software hash verification and review of the complete ballot creation and deployment process.

Findings and Limitations: All DS200 systems sold and used in Indiana are produced with no modem or antenna installed. Additionally, the EMS does not include the SW/COTS to allow modeming from a DS200 to ElectionWare.

During the field test, ES&S presented a feature for the electronic adjudication of the scanned ballots through the ElectionWare software. After discussion of this feature with the Indiana Election Division, it has been determined that Indiana law does not authorize the use of this procedure to make determinations regarding the tallying of votes or validity of a ballot. For this certification, this feature must be disabled among the ES&S EVS 6.0.4.0 voting system utilized in Indiana.

On the basis of VSTOP's review and evaluation, we find that the voting system referenced herein,
with the Scope of Certification and the limitations therein, meets all the requirements of the Indiana code for use of the state of Indiana. This finding includes compliance with the legal requirements for voters with disabilities.

CHAIRMAN OKESON: So what I hear you succinctly stating here is that this is just recertification. There's been no changes to the software. It's as it was being used prior to the expiration?

MR. CHATOT: Exactly.

CHAIRMAN OKESON: No barcode scanner?

MR. CHATOT: Right.

CHAIRMAN OKESON: Any questions?

VICE CHAIRMAN OVERHOLT: Well, I do. Sorry.

CHAIRMAN OKESON: No.

VICE CHAIRMAN OVERHOLT: I seem to be latching on to the same language in these, but just because it says that the features -- so referencing back to this electronic adjudication feature, so it says this feature must be disabled.

So my question is, can that feature be effectively disabled?

MR. CHATOT: I will defer to ES&S for that.

MS. NUSSMEYER: If I might, though, before
this discussion, I think there was a recent change in state law that may permit the electronic adjudication, a ballot. Do you want to read it, Matthew?

MR. KOCHEVAR: Mr. Chairman, members of the Commission, there was a recent addition to state law that is Indiana Code 3-11-15-13.8. It has to do with electronic adjudication.

That section reads, "A voting system certified for use under this chapter may include features to permit the use of electronic adjudication of ballots to review voter's intent so long as, one, the adjudication is conducted in compliance with Indiana law," meaning the ballot standards, those we find in 3-12-1 specifically; "and, two, the software is part of the electronic management system, EMS, certified by the Commission as part of the voting system."

CHAIRMAN OKESON: Can you state your name?


MS. WARYCHA: And I will just confirm. Valerie, V-A-L-E-R-I-E, last name, W-A-R-Y-C-H-A. I'm co-general counsel. I'm just confirming that
Matthew is accurate in his statement.

CHAIRMAN OKESON: I don't doubt that he is, but what exactly did you say?

MR. KOCHEVAR: So essentially, because I was thinking about the questions you would want to probably ask VSTOP and then the vendor.

With the changes in state law, electronic adjudication or the taking of a paper ballot and using a piece of software can magnify it to determine did the voter vote for this, is the circle complete, can you determine they're voting for X candidate as opposed to the other one.

In order to do that, it has to be certified by this Commission. So the first thing you want to figure out and ask -- and I think the report answers that -- is, is this -- can this particular software be added into the EMS that's part of this certified system? That's the first question you want to ask, and the vendor and VSTOP can confirm that.

Number two I think you would want to ask VSTOP is that if it was included in the certification, did they want tested?

And then number two is, is that in their test, did they confirm that this part of the voting
system complies with all state laws that we have
on -- for ballot adjudication as well as the other
standards of voter intent and how to count ballots.

CHAIRMAN OKESON: Thank you for that. I guess
I would say, as the way this report is written, the
first question I will ask is were you aware of the
change in law? And, therefore, to his question,
did you test for it? Does it work?

MR. BAGGA: Mr. Chairman, we did become
recently aware of that law, but we left the report
as it is, because that's how the system was
certified last time.

CHAIRMAN OKESON: Could you say your name,
please.

MR. BAGGA: Jay Bagga, B-A-G-G-A, co-director
of VSTOP.

MR. KING: Mr. Chairman, members of the
Commission, the application is for a renewal of an
existing certified system, and therefore any
alteration, whether it be an engineering change
order or something of more magnitude, would have to
be submitted separately.

CHAIRMAN OKESON: So it's not contemplating
the change in the law, it's simply recertifying a
system as was used prior to this date?
MR. KING: Correct.

VICE CHAIRMAN OVERHOLT: So if ES&S wants to market that functionality, they would have to come back?

DR. BAGGA: Yes.

CHAIRMAN OKESON: Do you have any more to add?

DR. BAGGA: No.

CHAIRMAN OKESON: Any other questions?

VICE CHAIRMAN OVERHOLT: No.

CHAIRMAN OKESON: We'll move on. Again, keep the comments to three minutes. We'll go to the sign-in sheet. Merle.

I know you've done it a couple times, but could you say your name.


Members of the Commission, first of all, thank you for your time, your energy, and your work. To be honest, I've not been deeply engaged in a lot of this process until the last 12 months. I'm sure all of you have been much longer than that, and I appreciate that. So thank you for your time and service.

I'm a retired engineer from a Fortune 200 company here in Indiana. And during my career I
spent time settling standards, running tests, to
determine if systems met -- and that's all really
important and good stuff.

A couple things that I think I apply -- I've
learned and I've applied, one is that's all great,
but the bottom line is your customers get what they
want, are they happy with it, are they going to
come back. In business those are really important
questions.

And I would submit many of your customers are
not happy, don't like what they're getting and
don't really want to come back, including me, but
many others. So I think that's an important thing
that I hope you recognize in here.

Second thing is, as an engineer, I understand
a lot of these technical things. Maybe not
election systems, but in my work environment. But
a lot of times I think it's useful to drop all of
that stuff and just get down to something simple.

So I think about -- something I do every day,
and you probably do it every day and will this
week, you pull a credit card out of your pocket,
and you flash it to somebody and you buy something.
And when you do, you probably get a little piece of
paper, a receipt.
And if you are like me, certainly my wife makes darn sure I do, I take that home, and every month she gets a statement, and she takes the receipts, and she marks it off. Right?

Because my money is important to me, same as my vote is important to me. And I want to make sure it's rectified and everything is right. And I don't want to pay a dollar more than I have to, and I'm willing to pay every dollar I should. Okay?

We all have that system and we know it.

Now I want to take that analogy to our election system. I vote on MicroVote. I did not get a receipt. Some people do. I didn't get a receipt. So I used my credit card, but I didn't get a receipt.

And at the end of the month, I'm not going to get a statement. I will hear something that somebody says about what happened with that, okay, but I won't get a statement, and I can't compare, and I can't check.

And I'm sure that Mr. Bagga and company are bright people; they do a lot of good things making sure the systems work and blah, blah, blah. But if the bank calls me and says, You owe me $457, okay, and I have no receipt, and I have no statement, all
I have is the bank calling me telling me a result and that's it, I can pay the 457 and go on and do it again the next time.

Or I can come to some group at the bank and say, I don't know, I can't understand, I can't audit it, I don't think it's right. But I have no recourse, and I have no confidence, and I have no ability -- no ability to understand was my vote really what was counted in the way I intended it to be.

So it's a simple analogy, but to me that's a world I do not want to live in. And I will challenge each and every one of you, the next time you pull a credit card out of your pocket, I really hope you think about that. Right? This is how I want to cast my vote. And that's it. It's done. And I have no recourse. All I can do is decide if I want to give my credit card again to somebody else and pay my bill that they tell me I owe.

And our voting system is very much like that. No matter how hard everybody works to try to make it robust and secure and accurate, it is not an honorable system.

And I recognize this is not pertinent to these very specific issues you're taking up today, but I
hope you are hearing the community tell you these things. And I really hope that you use your influence and authority to try to make this system much more secure and robust than it is.

CHAIRMAN OKESON: I appreciate your comments today and note that the intention of this process today is to recertify these systems. So the commentary and the sign-in sheets should be geared toward you're on the record speaking about MicroVote in your county and some comments that you made that don't seem germane to the EVS 6.0.4.0?

MR. MILHOAN: And my county may very well move to ES&S some day in the near future. Right? So I think my comments are very appropriate in that way.

CHAIRMAN OKESON: I understand. Thank you.

MR. MILHOAN: Thank you for your time.

CHAIRMAN OKESON: Greg Coy? Cox?

MR. COY: Coy. Are you attempting Q and A at all?

CHAIRMAN OKESON: We're not here to answer questions. Could you please state your name and spell it.

MR. COY: Greg Coy. G-R-E-G. C-O-Y.

A couple specific questions around the -- one is the change, the electronic adjudication that I
have, which is, was anything -- in terms of electronic adjudication, has it been looked at in terms of --

CHAIRMAN OKESON: So what I would recommend is that you put your questions in writing and send them to the election division for a potential response. We're not really here to have a Q and A on the recertification unless you have some comments that you would like to make, you're welcome to make them for the purpose of the record.

VICE CHAIRMAN OVERHOLT: And I guess I'd add to the electronic adjudication, what we were just told actually wasn't part of the recertification, because an electronic adjudication isn't part of what had been certified before. So for them to be certified for electronic adjudication, they're going to have to go through a new process for that specific comment.

CHAIRMAN OKESON: That would be an engineering change. They would submit a change order request for -- to be submitted and go through the same process again. So without that, they're not able to sell that feature to the counties.

MR. COY: So in order to get questions answered around the security, the confidentiality,
integrity, the whole ability of the systems in
terms of -- let's just say privilege
administration, who has access, administrative
access, things like that, the security around the
system?

    MS. WARYCHA: I was just doing a public record
request. Those come into the election division all
the time. Myself and Matthew fill those, a
bipartisan effort, elections@iec.in.gov. You can
always submit a public request there, and it comes
to Matthew and I, and we work with the co-directors
and the Commission to answer anything that comes
out of there.

    MR. COY: We've submitted quite a number of
them, and the percentage of response is very, very
low.

    MS. WARYCHA: You submitted as public -- we're
required by law to respond to public record
requests, if you put it in that way.

    MR. COY: The response was not very in-depth,
let's put it that way. So I'm just looking for
more insight into the actual security and controls
around the systems themselves. And some of that's
the vendor, right, I understand that, but there's
some issues around the security and specifically
around adjudication -- electronic adjudication and the full abilities that exist.

CHAIRMAN OKESON: I would take her up on her offer, follow up on it. We're trying to get through this particular part of the process. We're not trying to shut you down. We're just trying to keep it germane to the matter at hand, which is a motion and second to approve this software for recertification, unless you have comments about that.

MR. COY: No.

CHAIRMAN OKESON: Is it Clee Oliver?

MR. OLIVER: C-L-E-E. O-L-I-V-E-R. Thank you again for doing this. One thing I would suggest, and I did last time I was here, is to put this out -- you're asking for public comment, but there's nothing on public to comment on, because it's not online.

You know, the certification, the stuff that they're going through right now is not online. So how do you comment on something that you haven't even seen yet? You've all got your books here, but we haven't got anything to public comment on. Just a suggestion, please.

First of all, I'd like to ask ES&S to be
decertified as a voting system in the State of Indiana. I'm in Howard County so we have ES&S.

In 2006 ES&S paid a fine to the State of Indiana for an enforcement proceeding initiated by the Secretary of State, Todd Rokita, and agreed to contribute $245,000 to help fund VSTOP. Conflict of interest? I don't know.

Georgia, ES&S resulted from more than -- a result of more than 150,000 voter backup paper ballots were not produced. As of this time, and this article was 2000 -- I forget what the date was. It was in litigation.

Indiana, Johnson County, 2018, the company's brand new machines failed to determine if some people had voted twice. The result in Johnson County, they needed to purchase new machines at more than $1.5 million.

In 2006, Florida, ES&S machines lost 18,000 votes. Other issues of lawsuits filed by ES&S, September of '18 against Cook County, Illinois. ES&S sued two companies in Los Angeles, California. 2016, they sued Colorado.

2016 they sued Wisconsin against the voting rights activists' audit USA. In that suit -- they sued individuals that they purchased machines that
were old machines off eBay and said that if you help anybody out, we're going to sue you too.

      Computer scientists at the University of Michigan said, "The vendors have made" -- I'd like to quote. "The vendors have made election officials fearful of working with researchers to independently test equipment."

      Bloomberg News reported that ES&S occasionally packaged the machines and sold as new.

In closing, Senator Ron Wyden of Oregon, Democrat of Oregon, quote, ES&S maintains there is no need for tighter regulations or oversight of this business.

      From what I'm seeing, I mean they -- so my last comment down here was, I guess you must certify or you might get sued.

      I would like to give these documents, if I could, to be on record to the committee, if I could, please.

      CHAIRMAN OKESON: Could you please hand the documents to Valerie.

      MR. OLIVER: (Hands documents.)

      Also, I want to know who to turn this in to. This is a forwarded request for the documentation presented today. So I guess you have 24 hours to
let me know, because I'm giving it to you in
person, if I'm correct.

MR. KOCHEVAR: Yes.

MR. OLIVER: Okay. Thank you.

Like I said, the part that really bothered me
most is the fact it's not online. You don't get to
see it. Certification of F stop -- or F stop,
that's cameras -- VSTOP.

I'd asked again, just as recent as last week
for Vigo County, have not got it. I talked to the
Secretary of State. She was in our breakfast the
other morning, and I asked her. And she said, It
should be on the website in two weeks. And we'll
see what happens.

I think I talked to Matthew, and I appreciate
your help in trying to get that stuff. I guess
this committee does not have the documentation that
we are now seeing here.

So, again, I appreciate your listening and
hope that you, again, decertify ES&S. Thank you.

CHAIRMAN OKESON: Thank you for your comments.

Joy Martin.

MS. MARTIN: Joy Martin again. Just food for
thought. When you buy a new PC for home -- I'll
not say for work because usually that's all taken
care of for you, but when you buy a new PC at home
or when you have a new phone at home, what's the
first thing that you do? You set it up to go
online. Why? Well, all of your information that
you need to acquire is online.

It's online at the bank. It's online at all
of the stores that you purchase from. It's online
where you shop. It's online with Wikipedia. It's
online with the movies that you buy.

So when you get that set up, you just leave it
set up and don't do anything more to it? You've
got your banking account information on it. No.
You do virus protection immediately.

Immediately you set up virus protection on
your laptop, your phone, desktop, stuff proprietary
to the company that sells you the phone. That
virus information is up to date.

What is a virus? It's a program that is
designed to do something in your computer to either
disable it or to steal information or to shut it
down. So it is nefarious.

Once you set up that virus software, is it
once and done? No. Every time you go online, if
you have good virus software, it checks for
updates. Why? Because new viruses are coming out
all the time, computer viruses, and they are intent
on stealing from you.

So if we have software here that is going to
be certified at this point in time, is that
software certified when a user goes in and uses
that device with that software on it? Can that
person go in and run the software check on it,
virus scan on it, right before they place their
vote? No one can. That's not feasible.

And viruses are always changing. Viruses come
out before the antivirus software comes out to fix
it. So we're always a step behind.

So there is no way we can have an electronic
voting system of any sort that is trustworthy to be
used for something as important as our vote. Thank
you.

CHAIRMAN OKESON: Jen Dunbar.

MS. DUNBAR: Hi. I'm back. Thank you again.
I'll try to make it quick. So to summarize what I
said before, equal votes are all connected to the
Internet. They have firewalls too.

Voting systems were connected to the Internet,
by the NBC report by Cynthia McFadden last year in
January of 2020, and ballot marking devices are not
honorable.
Now I'm going to focus and be more specific on ES&S, since that's the system. So ES&S, as we know from the great reporting, broke the law in '18 in Johnson County by not keeping the firewall box.

The whole issue in the long lines in Johnson County in '18 was because of not enough firewall capacity. So probably one of the most important things that needed to be looked at in the VSTOP report, which was very complete, was the firewall box.

The next thing, they also -- when you read the VSTOP report about that Johnson County e-poll book fiasco in 2018, you see that there was poor communication, and they were handing out supervisor passwords to everybody just to try to do a workaround to get everything to work. Again, against the law. So two times against the law with that one.

Then if you go to that 2020 report from Cynthia McFadden NBC where they found our machines here in Indiana were connected to the Internet. I recommend everybody watch that if you haven't already.

They also found that ES&S was not very transparent financially. We don't know who owns
it. They won't release their financials at all.

And they also found parts from other countries in our machines. I don't think we look at every single machine, we just look at one that goes through VSTOP, so I think that's a concern as well.

Source code is not open to the public. And as well the EAS, the U.S. Election Assistance Commission admonished them for misleading advertising. They were saying their DS200 that had the modems in them -- in other states, not ours -- as you mentioned, they were saying they were ESD certified, which they weren't.

So to me, I would implore not voting on any ES&S for that reason. It's not a company -- think in your own mind, if somebody broke the law, misleading advertising, financially not transparent, lots of lawfare, suing all the states, is that somebody who we should do business with just because they put in a quote.

And I don't know whose responsibility is it to say no, that's not somebody -- I mean I don't know what everybody does in their daytime except for the people who work for the division, but would you want to work for a corporation like that.

A lot of the machines in the auto mark that's
in our system, every year they have DEF CON, a
voting village, and every year they're able to hack
in with like five minutes. Like children can hack
into all these things.

They found passwords like 111 and ESS. And
they found Netflix and Hula on it. And they found
lack of hardening on some of the software. And
they do this every year, so I don't think they're
super safe.

I feel like we want to modernize our
elections, and I hold no -- I think it was good
experiment, but I think we should maybe think about
cutting our losses, not using machines, go the way
Europe -- they still go on paper. They didn't do
the machines. So I think that would be good.

I think it was a gamble we took. We tried it,
and we should go back to paper. A famous guy,
Kenny Rogers, you may know him, said, "Know when to
hold 'em and know when to fold 'em, know when to
walk away, know when to run."

I think we should walk away and run from
machines, not just ES&S but definitely ES&S, and
then you all can count your machine while you're
sitting at the table because you'll have a lot of
it. That's all. Thank you.
CHAIRMAN OKESON: No other individuals signed up to speak.

MS. KHURI: I didn't see the header on the clipboard, that there was a difference.

CHAIRMAN OKESON: Could you state your name.

MS. KHURI: Kelly, K-E-L-L-Y. Last name, K-H-U-R-I.

CHAIRMAN OKESON: You didn't list your county.

MS. KHURI: I know. Clark. And I know what we have, Unity 3.4.1.

VICE CHAIRMAN OVERHOLT: ES&S?

MS. KHURI: Yes. So I agree with everything the previous lady said and then some. My issue is -- and will be maintained until we do transfer back to paper ballots, paper poll books, and counted -- is cyber security.

I did mention last time about FireEye. And the lady who you're proxying disagreed with me. And I was like, I have a correction for the minutes, because FireEye was contracted for election security. The contract we have in our county, Ms. Lawson's press release stated such in the same sentence.

So I really would like -- you've already approved your minutes, but perhaps this one can
reflect that FireEye was contracted for election
security, and they have had issues. As we know
from the previous meeting, we talked about FCC
filing and so forth.

And our county commissioners have stated
everything is hackable. Our cyber security has
gone up 100 percent. That's Clark County. I have
the minutes if you would like to review them, but
these things have been stated.

So with everything that's been said today
about this particular vendor -- and our machines
are very, very old. Okay. And our commissioners
and clerk are throwing around perhaps some
different ones for well over a million dollars.
And if I have anything to do with it, it will be
stopped.

And I think that it would behoove you all to
do as the previous lady asked, to cut and run. Cut
and run on ES&S. Cut and run. Thank you all.

CHAIRMAN OKESON: Anyone have any questions?
We have a motion and a second. All those in
favor signify by saying, "Aye."

VICE CHAIRMAN OVERHOLT: Aye.

MS. PYLE: Aye.

MR. CLAYTOR: Aye.
CHAIRMAN OKESON: The "ayes" have it. The motion carries.

That concludes our business with the Commission today. Is there a motion to adjourn?

MR. KING: So moved.

CHAIRMAN OKESON: Second?

MS. PYLE: Second.

CHAIRMAN OKESON: All those in favor?

VICE CHAIRMAN OVERHOLT: Aye.

MS. PYLE: Aye.

MR. CLAYTOR: Aye.

CHAIRMAN OKESON: So adjourned. Thank you.

(The Indiana Election Commission Public Session was adjourned at 3:04 p.m.)
STATE OF INDIANA
COUNTY OF MARION

I, Laurie Morgan, a Notary Public in and for said county and state, do hereby certify that the foregoing public section was taken at the time and place heretofore mentioned between 1:30 p.m. and 3:04 p.m.;

That said public session was taken down in stenograph notes and afterwards reduced to typewriting under my direction; and that the typewritten transcript is a true record of the proceedings;

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 22nd day of December, 2021.

My Commission expires:
January 29, 2023

Job No. 167897
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<td>2019</td>
<td>38:20</td>
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<td>2020</td>
<td>56:24 57:19</td>
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<td>2021</td>
<td>5:10,15,18,22 14:25 39:2</td>
</tr>
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<td>2021-307</td>
<td>7:9,16</td>
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<td>2021-312</td>
<td>7:9,17</td>
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<td>9:18 10:6,9</td>
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<td>6.0.4.0</td>
<td>37:4,12 38:2,13 39:22 48:11</td>
</tr>
</tbody>
</table>

**A**

**abilities** 51:2

**ability** 47:8 50:1

**absentee** 27:10,11

**accept** 9:15,20,24,25

**accepting** 10:9 35:22

**accepts** 24:22

**access** 50:3,4

**account** 55:12

**accountable** 31:1

**accurate** 25:10 42:1 47:22

**accurately** 32:7

**accustomed** 28:2

**acquire** 55:5

**actions** 7:10 9:6

**activists'** 52:24

**actual** 25:16 50:22

**add** 13:24 44:6 49:11

**add-on** 18:18 20:9

**added** 42:17

**addition** 41:6

**additional** 17:2

**Additionally** 15:8 39:10

**addressed** 37:15

**addressing** 21:18

**adjudication** 39:14 40:20 41:3, 8,11,13 42:8 43:2 48:25 49:2,12, 14,16 51:1

**admin** 21:1 24:25 25:1,5

**administration** 6:11 50:3

**administrative** 50:3

**adopt** 7:16 36:14,16

**adoption** 7:12

**advising** 37:17

**affirm** 6:17

**agenda** 6:23

**agreed** 52:5

**agreements** 6:25 7:1,5

**ahead** 9:3 35:2 37:22

**alleged** 8:17

**allowed** 21:20 25:18

**allowing** 32:3

**alteration** 43:20

**amend** 28:8 35:8

**amended** 36:6,15,17

**amending** 28:15 35:11

**amendment** 28:13

**amendments** 28:15

**analogy** 46:11 47:11

**Angeles** 52:21

**Angie** 37:5

**answers** 42:16

**antenna** 15:8 39:10

**antivirus** 56:11

**appears** 28:6


**applied** 45:5

**apply** 45:4
| approval  5:9,19 7:6 11:19,21 35:20 |
| approve  5:21 10:6,8,9 37:23 51:8 |
| approved  6:8 14:24 17:21 34:19 38:2 39:1 |
| arguments  9:9,12 |
| arrangement  9:17 |
| article  52:11 |
| assignments  29:24 |
| Assistance  14:18 38:20 |
| attach  18:19 |
| attached  13:15 |
| Attachment  13:4 |
| attempting  48:18 |
| audience  27:14 |
| audit  47:6 52:24 |
| authority  48:3 |
| authorization  8:6 |
| authorize  39:18 |
| authorized  23:14 |
| auto  16:16 |
| aware  43:6,10 |
| Aye  6:3,4,5,6 7:24,25 8:1,2 10:17,18,19,20 36:8,9,10,11,21,22,23,24 |
| ayes  6:7 8:3 10:21 36:12,25 |
| bank  46:24 47:1,4 55:6 |
| banking  55:12 |
| barcodes  22:13,16,24 23:1,3,5 |
| basically  23:13 25:2 |
| basing  18:6 |
| basis  39:24 |
| basket  32:21 |
| begin  29:15 |
| beginning  30:7 |
| behalf  5:4 |
| believes  26:17 |
| Ben  18:9 |
| benefit  27:25 |
| big  32:21 |
| bill  47:19 |
| binders  12:6 37:9 |
| bipartisan  50:9 |
| bit  25:24 32:17 |
| blah  46:23 |
| Bloomberg  53:8 |
| blue  12:7 |
| books  31:9,11 32:25 33:8 51:22 |
| bothered  54:5 |
| bottom  45:6 |
| box  57:4,10 |
| Brad  32:9 37:5,7 |
| brand  52:14 |
| breakfast  54:11 |
| bright  46:22 |
| bring  30:15 |
| broke  33:2 57:3 |
| Brown  31:4 |
| bullet  35:24 |
| business  7:6 45:8 53:13 |
| buy  20:13 45:23 54:24 55:1,9 |
| buying  16:12 20:19 |

---

| C |

<p>| C-H-A-T-O-T  14:9 38:12 |
| C-L-A-Y-T-O-R  38:8 |
| C-L-E-E  51:13 |
| C-O-Y  48:23 |
| California  33:9 52:21 |
| calling  47:1 |
| calls  46:24 |
| cameras  54:8 |
| campaign  6:24 7:6 8:14,25 9:5 |
| candidate  42:12 |
| capacity  57:7 |
| care  55:1 |
| career  44:25 |
| carefully  19:6 |
| carries  6:8 8:4 10:22 36:13 37:1 |
| case  37:15 |
| cases  30:9 |
| cast  47:16 |
| caveat  27:18 |
| central  14:14 38:16 |</p>
<table>
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**Thinking** 42:5

**Thompson** 7:3,8 8:24 9:23

**Thought** 31:11 33:23 54:24

**Tighter** 53:12

**Tim** 20:1


**Times** 44:13 45:18 57:17


**Todd** 52:5

**Toggle** 21:3 24:25

**Told** 49:13

**Totally** 27:18

**Touchscreen** 16:17 26:12

**Translate** 25:24

**Transparent** 32:14 34:9 57:25

**Trust** 31:21

**Trustworthy** 56:14

**Truth** 6:19,20

**Turn** 12:4 25:2,4,6 53:23

---

**U**

**U.S.** 14:17 38:19

**Uncheck** 21:4

**Underneath** 20:25


**Unfinished** 6:24

**Uniformity** 13:21

**Unique** 30:4

**Unisyn** 31:7,13

**University** 53:3

**Unnecessary** 27:17

**Updates** 55:25

**USA** 52:24

**Usage** 25:8