

**Indiana Election Commission**  
**Minutes**  
**December 6, 2021**

**Members Present:** Paul Okeson, Chairman of the Indiana Election Commission (“Commission”); Suzannah Wilson Overholt, Vice Chairman of the Commission; Michael Claytor, Proxy for Karen Celestino-Horseman, member; Litany A. Pyle, Member.

**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 Milhoan; 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”.

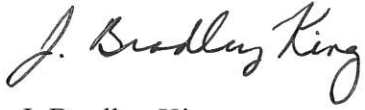
Page 8, line 19, replace “representation” with “representative”.

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

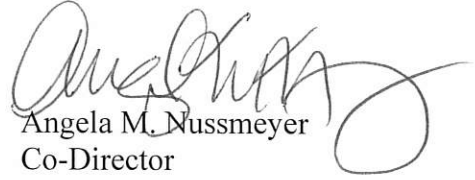
Page 62, line 5, replace “KING” with “CLAYTOR”.

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*

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## **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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1 APPEARANCES

2 INDIANA ELECTION COMMISSION:

3 Paul Okeson - Chairman

4 Suzannah Wilson Overholt - Vice Chairman

5 Michael Claytor - Proxy for Karen Celestino-Horseman

6 Litany Pyle - Member

7  
8 INDIANA ELECTION DIVISION STAFF:

9 J. Bradley King - Co-Director

10 Angela M. Nussmeyer - Co-Director

11 Matthew Kochevar - Co-Counsel

12 Valerie Warycha - Co-Counsel

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1 CHAIRMAN OKESON: Let's go ahead and call the  
2 Indiana Election Commission to order Monday,  
3 December 6, 2021, roughly 1:30, here at Government  
4 Center South.

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

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

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

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

22 Also, we have sign-in sheets. If you are  
23 planning on providing any testimony or wanting to  
24 speak today, please be sure that you sign in and  
25 provide the information requested.

1           Moving on I'd like to make sure that we have  
2 compliance with the Open Door Law. I request the  
3 co-directors confirm that.

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

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

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

16           CHAIRMAN OKESON: Okay. Wrong date.

17           I recognize the minutes from November 15,  
18 2021.

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

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

23           VICE CHAIRMAN OVERHOLT: So moved.

24           CHAIRMAN OKESON: Second?

25           MS. PYLE: Second.



1 CHAIRMAN OKESON: Any discussion?

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

4 VICE CHAIRMAN OVERHOLT: Aye.

5 MS. PYLE: Aye.

6 MR. CLAYTOR: Aye.

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

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

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

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

21 ALL: I do.

22 CHAIRMAN OKESON: Thank you, Mr. Kochevar.

23 Moving on in the agenda, it looks like we have  
24 some unfinished campaign finance matters,  
25 ramification of finance settlement agreements.

1           We currently have no settlement agreements  
2 filed; is that correct? I recognize staff.

3           MS. THOMPSON: Correct.

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

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

13          CHAIRMAN OKESON: Which ones are those?

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

15          CHAIRMAN OKESON: Well, there you go.

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

18          VICE CHAIRMAN OVERHOLT: So moved.

19          CHAIRMAN OKESON: Is there a second?

20          MS. PYLE: Second.

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

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

25          VICE CHAIRMAN OVERHOLT: Aye.

1 MS. PYLE: Aye.

2 MR. CLAYTOR: Aye.

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

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

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

10 MR. CLAYTOR: Consent.

11 MS. PYLE: Consent.

12 VICE CHAIRMAN OVERHOLT: Consent.

13 MR. KING: Thank you.

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

20 MR. JUSTUS: Yes.

21 CHAIRMAN OKESON: Would you like to come  
22 forward?

23 MR. JUSTUS: Yes.

24 MS. THOMPSON: Mr. Chairman, in your packet  
25 behind the campaign finance tab.

1 CHAIRMAN OKESON: Do you want to go through  
2 the option?

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

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

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

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

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

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

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

25 MR. JUSTUS: Okay. I'll accept.

1 CHAIRMAN OKESON: If you don't mind, say your  
2 name and spell it for the record.

3 MR. JUSTUS: Sure. My name is Walter Justus.  
4 J-U-S-T-U-S.

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

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

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

13 MS. PYLE: Second.

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

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

18 MS. PYLE: Aye.

19 MR. CLAYTOR: Aye.

20 VICE CHAIRMAN OVERHOLT: Aye.

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

23 MR. JUSTUS: Thank you, folks.

24 CHAIRMAN OKESON: Moving on, application for  
25 certification of previously certified voting

1 systems. Election Systems & Software application  
2 for certification of voting system EVS 5.2.4.0.

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

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

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

15 MR. KING: That's up to you.

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

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

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

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

25 VICE CHAIRMAN OVERHOLT: Yes.

1 CHAIRMAN OKESON: Is there a second?

2 MS. PYLE: Second.

3 CHAIRMAN OKESON: Second.

4 Discussion, I'll turn it over to you.

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

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

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

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

23 So each of those documents are present. And  
24 I'll defer to my counterpart, Co-Director  
25 Nussmeyer.

1 MS. NUSSMEYER: Thank you, Mr. King.

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

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

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

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

25 MR. KING: No, thank you.



1 CHAIRMAN OKESON: At this point in time I  
2 would recognize members of VSTOP. If you would,  
3 please introduce yourselves and speak into our  
4 high-tech microphone there. And if you don't mind  
5 spelling your name so we get it on the record.

6 MR. CHATOT: Sure.

7 CHAIRMAN OKESON: Thank you.

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

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

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

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

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

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

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

16           CHAIRMAN OKESON: Commission Members, any  
17 questions?

18           VICE CHAIRMAN OVERHOLT: I did have a  
19 question. So when it says, "Any functionality  
20 related to the prohibited features shall be  
21 disabled, if possible," what mechanisms do we have  
22 in place -- or if the county purchases this  
23 software or this voting system, I mean what's  
24 available to them in terms of making sure that  
25 prohibited features are actually disabled?

1           It seems like that sentence should just say  
2 they shall be disabled, period. The "if possible"  
3 there seems a little odd to me.

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

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

7           CHAIRMAN OKESON: Sure.

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

11          MR. CHATOT: Yes.

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

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

25          MR. CHATOT: Yes.

1 MS. NUSSMEYER: I just wanted to provide  
2 additional context.

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

5 MR. CHATOT: Yes.

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

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

12 MS. NUSSMEYER: It's not different.

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

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

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

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

24 VICE CHAIRMAN OVERHOLT: I know that.

25 MS. NUSSMEYER: It's optional for a county to

1 use that. The poll worker can actually physically  
2 go to the ballot marking device and enter the  
3 ballot style number for it to be pulled up on the  
4 screen.

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

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

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

10 CHAIRMAN OKESON: Can you spell your name,  
11 please?

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

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

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

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

22 And it would also have to be enabled on the  
23 poll book side. So the poll book would print that  
24 receipt. It's actually not a QR code. It's a  
25 128c barcode. It just has numbers, essentially.

1 And you take that over to the express vote, you'd  
2 scan it, and that would pull up your ballot style  
3 on the express vote.

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

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

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

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

18 MR. SWARTZ: Yes.

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

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

23 MR. HALLETT: If what?

24 MR. SWARTZ: If we have any configured here in  
25 Indiana.

1 MR. HALLETT: Hi, my name is Tim Hallett.  
2 T-I-M. H-A-L-L-E-T-T. The scanners are used in  
3 Indiana.

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

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

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

14 MR. HALLETT: No.

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

17 MR. HALLETT: Yes, that's correct.

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

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

25 MR. HALLETT: We do have an option underneath

1 the admin to enable or disable it as well. So even  
2 if you did have the barcode scanner installed,  
3 let's say, it's like a little toggle or checkmark  
4 that you would check, enable barcode or uncheck to  
5 not or disable it.

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

9 MS. NUSSMEYER: No, not at all.

10 CHAIRMAN OKESON: I'm with you.

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

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

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

25 MR. SWARTZ: So are you talking possibly any



1 barcode?

2 VICE CHAIRMAN OVERHOLT: It just occurred to  
3 me. You didn't write this report. I'm putting you  
4 in the hot seat. Okay.

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

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

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

21 VICE CHAIRMAN OVERHOLT: Okay.

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

1 functionality to the barcodes that are only in the  
2 system?

3 DR. BAGGA: Only of the 128c barcodes.

4 CHAIRMAN OKESON: But it could read other  
5 barcodes?

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

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

9 DR. BAGGA: Yes.

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

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

18 VICE CHAIRMAN OVERHOLT: Right.

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

23 MR. SWARTZ: No. Well, if it doesn't  
24 recognize the barcode -- let's say there's nine  
25 digits representing the barcode. It won't pull

1 anything up. So it has to meet certain  
2 specifications.

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

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

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

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

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

24 VICE CHAIRMAN OVERHOLT: And then you said  
25 under admin there's a -- but there is a toggle that

1 someone with admin rights could change that?

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

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

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

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

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

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

23 MS. NUSSMEYER: If I might just to help  
24 translate a little bit here as well. So when you  
25 go with the ES&S system and you check in, you're

1 presented a receipt tape, if the county wants to  
2 use the receipt tape to be able to pull something  
3 up on the ballot marking device.

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

10 MR. SWARTZ: Correct.

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

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

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

25 VSTOP, as part of their field test, also

1 looked at your ballot marking device, because we  
2 had recent changes in the state law that explicitly  
3 state things like we have to know not just Q  
4 numbers on the optical scan ballot card, we have to  
5 know who that person selected. Correct?

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

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

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

23 MR. SWARTZ: That's fair.

24 MS. WARYCHA: Sorry to interject, but now we  
25 have a court reporter. Just for her benefit going

1 forward, if everybody could just say and spell  
2 their name while she gets accustomed to who  
3 everybody is here for the next hour, because she's  
4 not used to all of our faces.

5 VICE CHAIRMAN OVERHOLT: Okay.

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

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

11 CHAIRMAN OKESON: Yes, we are.

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

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

15 VICE CHAIRMAN OVERHOLT: Amending amendments  
16 can get very messy.

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

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

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

23 Is there anybody else that would like to  
24 provide testimony?

25 Is it Kelly Khuri? Karie Khuri?

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

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

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

7 CHAIRMAN OKESON: Pardon me?

8 MS. KHURI: I'm going to wait.

9 CHAIRMAN OKESON: Okay. Joy Martin.

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

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

14 MS. MARTIN: Joy Martin. J-O-Y. M-A-R-T-I-N.

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

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

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



1 see them.

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

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

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

23 So we have no way to secure these systems no  
24 matter what. They're electronic. They're not  
25 visible. No one can see them. And the only way we

1 can have a secure system is if it's accountable,  
2 and that's to paper ballots.

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

5 MS. MARTIN: Yes, I am.

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

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

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

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

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

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

22 CHAIRMAN OKESON: Thank you for your  
23 testimony.

24 MS. MARTIN: Thank you.

25 CHAIRMAN OKESON: Jen Dunbar.

1 MS. DUNBAR: Jen, J-E-N. Dunbar, D-U-N-B-A-R.  
2 Thank you. Hi. How are you today? Thanks for  
3 allowing public comments. We appreciate it.

4 CHAIRMAN OKESON: You're welcome.

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

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

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

24 Now compare that to our current system where  
25 we have e-poll books, which are all connected to

1 the Internet.

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

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

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

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

22 Did you hear about that? I just didn't know  
23 how that was possible, because I thought they  
24 always say they're not connected to the Internet.  
25 So that was the other thing.

1 I think between those two systems where you  
2 had eight paper ballots, we all count in the open,  
3 versus the systems that are so rapidly changing and  
4 complex, that the laws can't keep up.

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

10 I think that's all. Thank you.

11 CHAIRMAN OKESON: Thank you for your comments.

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

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

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

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

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

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

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

24 MR. MILHOAN: Merle Milhoan. M-E-R-L-E. Last  
25 name M-I-L-H-O-A-N. And I'll gladly hold my

1 comments.

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

3 CHAIRMAN OKESON: Did you sign up?

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

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

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

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

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

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

16 CHAIRMAN OKESON: Yes.

17 VICE CHAIRMAN OVERHOLT: Sorry. I'm Suzannah  
18 Wilson Overholt. O-V-E-R-H-O-L-T. Suzannah,  
19 S-U-Z-A-N-N-A-H, Vice Chair.

20 So I would move approval of the ES&S  
21 EVS 5.2.4.0, renewal of that certification. And  
22 accepting VSTOP's report with the modification on  
23 page 4 of the report that -- under Findings and  
24 Limitations, the second bullet, to delete -- at the  
25 end of that paragraph, delete "comma if possible."

1 CHAIRMAN OKESON: So that stands as the  
2 motion. Do we have a second?

3 MS. PYLE: Litany Pyle. L-I-T-A-N-Y.  
4 P-Y-L-E. I'll second.

5 CHAIRMAN OKESON: Any discussion on the  
6 amended motion?

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

9 VICE CHAIRMAN OVERHOLT: Aye.

10 MS. PYLE: Aye.

11 MR. CLAYTOR: Aye.

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

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

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

18 MS. PYLE: Second.

19 CHAIRMAN OKESON: Any discussion?

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

22 VICE CHAIRMAN OVERHOLT: Aye.

23 MS. PYLE: Aye.

24 MR. CLAYTOR: Aye.

25 CHAIRMAN OKESON: The "ayes" have it. The

1 motion carries.

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

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

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

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

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

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

25 So for purposes of that I move the application



1 submitted by ES&S for recertification of  
2 EVS 6.0.4.0 voting system be approved for marketing  
3 and use in Indiana, with the term expiring  
4 October 1, 2025, with the restrictions set forth in  
5 the report submitted by VSTOP.

6 MR. CLAYTOR: Second.

7 CHAIRMAN OKESON: Thank you.

8 MR. CLAYTOR: Michael Claytor. C-L-A-Y-T-O-R.

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

11 MR. CHATOT: Marc Chatot. M-A-R-C.

12 C-H-A-T-O-T.

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

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

24 This voting system was reviewed and  
25 field-tested by using the Indiana Voting Systems

1 Certification Protocol approved by the Indiana  
2 Election Commission on November 15, 2021.

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

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

13 During the field test, ES&S presented a  
14 feature for the electronic adjudication of the  
15 scanned ballots through the ElectionWare software.

16 After discussion of this feature with the  
17 Indiana Election Division, it has been determined  
18 that Indiana law does not authorize the use of this  
19 procedure to make determinations regarding the  
20 tallying of votes or validity of a ballot. For  
21 this certification, this feature must be disabled  
22 among the ES&S EVS 6.0.4.0 voting system utilized  
23 in Indiana.

24 On the basis of VSTOP's review and evaluation,  
25 we find that the voting system referenced herein,

1 with the Scope of Certification and the limitations  
2 therein, meets all the requirements of the Indiana  
3 code for use of the state of Indiana. This finding  
4 includes compliance with the legal requirements for  
5 voters with disabilities.

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

11 MR. CHATOT: Exactly.

12 CHAIRMAN OKESON: No barcode scanner?

13 MR. CHATOT: Right.

14 CHAIRMAN OKESON: Any questions?

15 VICE CHAIRMAN OVERHOLT: Well, I do. Sorry.

16 CHAIRMAN OKESON: No.

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

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

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

25 MS. NUSSMEYER: If I might, though, before

1 this discussion, I think there was a recent change  
2 in state law that may permit the electronic  
3 adjudication, a ballot. Do you want to read it,  
4 Matthew?

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

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

19 CHAIRMAN OKESON: Can you state your name?

20 MR. KOCHEVAR: Yes. My name is Matthew  
21 Kochevar, K-O-C-H-E-V-A-R, co-general counsel at  
22 the Indiana Election Division.

23 MS. WARYCHA: And I will just confirm.  
24 Valerie, V-A-L-E-R-I-E, last name, W-A-R-Y-C-H-A.  
25 I'm co-general counsel. I'm just confirming that

1 Matthew is accurate in his statement.

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

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

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

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

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

24 And then number two is, is that in their test,  
25 did they confirm that this part of the voting

1 system complies with all state laws that we have  
2 on -- for ballot adjudication as well as the other  
3 standards of voter intent and how to count ballots.

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

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

13 CHAIRMAN OKESON: Could you say your name,  
14 please.

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

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

23 CHAIRMAN OKESON: So it's not contemplating  
24 the change in the law, it's simply recertifying a  
25 system as was used prior to this date?

1 MR. KING: Correct.

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

5 DR. BAGGA: Yes.

6 CHAIRMAN OKESON: Do you have any more to add?

7 DR. BAGGA: No.

8 CHAIRMAN OKESON: Any other questions?

9 VICE CHAIRMAN OVERHOLT: No.

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

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

15 MR. MILHOAN: Merle. M-E-R-L-E. Last name is  
16 Milhoan, M-I-L-H-O-A-N.

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

24 I'm a retired engineer from a Fortune 200  
25 company here in Indiana. And during my career I

1 spent time settling standards, running tests, to  
2 determine if systems met -- and that's all really  
3 important and good stuff.

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

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

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

20 So I think about -- something I do every day,  
21 and you probably do it every day and will this  
22 week, you pull a credit card out of your pocket,  
23 and you flash it to somebody and you buy something.  
24 And when you do, you probably get a little piece of  
25 paper, a receipt.



1           And if you are like me, certainly my wife  
2 makes darn sure I do, I take that home, and every  
3 month she gets a statement, and she takes the  
4 receipts, and she marks it off. Right?

5           Because my money is important me, same as my  
6 vote is important to me. And I want to make sure  
7 it's rectified and everything is right. And I  
8 don't want to pay a dollar more than I have to, and  
9 I'm willing to pay every dollar I should. Okay?  
10 We all have that system and we know it.

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

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

21           And I'm sure that Mr. Bagga and company are  
22 bright people; they do a lot of good things making  
23 sure the systems work and blah, blah, blah. But if  
24 the bank calls me and says, You owe me \$457, okay,  
25 and I have no receipt, and I have no statement, all

1 I have is the bank calling me telling me a result  
2 and that's it, I can pay the 457 and go on and do  
3 it again the next time.

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

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

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

24 And I recognize this is not pertinent to these  
25 very specific issues you're taking up today, but I

1 hope you are hearing the community tell you these  
2 things. And I really hope that you use your  
3 influence and authority to try to make this system  
4 much more secure and robust than it is.

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

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

15 CHAIRMAN OKESON: I understand. Thank you.

16 MR. MILHOAN: Thank you for your time.

17 CHAIRMAN OKESON: Greg Coy? Cox?

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

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

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

24 A couple specific questions around the -- one  
25 is the change, the electronic adjudication that I

1 have, which is, was anything -- in terms of  
2 electronic adjudication, has it been looked at in  
3 terms of --

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

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

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

24 MR. COY: So in order to get questions  
25 answered around the security, the confidentiality,

1 integrity, the whole ability of the systems in  
2 terms of -- let's just say privilege  
3 administration, who has access, administrative  
4 access, things like that, the security around the  
5 system?

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

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

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

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

1 around adjudication -- electronic adjudication and  
2 the full abilities that exist.

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

11 MR. COY: No.

12 CHAIRMAN OKESON: Is it Clee Oliver?

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

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

25 First of all, I'd like to ask ES&S to be

1 decertified as a voting system in the State of  
2 Indiana. I'm in Howard County so we have ES&S.

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

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

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

18 In 2006, Florida, ES&S machines lost 18,000  
19 votes. Other issues of lawsuits filed by ES&S,  
20 September of '18 against Cook County, Illinois.  
21 ES&S sued two companies in Los Angeles, California.  
22 2016, they sued Colorado.

23 2016 they sued Wisconsin against the voting  
24 rights activists' audit USA. In that suit -- they  
25 sued individuals that they purchased machines that

1 were old machines off eBay and said that if you  
2 help anybody out, we're going to sue you too.

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

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

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

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

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

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

22 MR. OLIVER: (Hands documents.)

23 Also, I want to know who to turn this in to.  
24 This is a forwarded request for the documentation  
25 presented today. So I guess you have 24 hours to



1 let me know, because I'm giving it to you in  
2 person, if I'm correct.

3 MR. KOICHEVAR: Yes.

4 MR. OLIVER: Okay. Thank you.

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

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

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

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

21 CHAIRMAN OKESON: Thank you for your comments.

22 Joy Martin.

23 MS. MARTIN: Joy Martin again. Just food for  
24 thought. When you buy a new PC for home -- I'll  
25 not say for work because usually that's all taken

1 care of for you, but when you buy a new PC at home  
2 or when you have a new phone at home, what's the  
3 first thing that you do? You set it up to go  
4 online. Why? Well, all of your information that  
5 you need to acquire is online.

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

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

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

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

22 Once you set up that virus software, is it  
23 once and done? No. Every time you go online, if  
24 you have good virus software, it checks for  
25 updates. Why? Because new viruses are coming out

1 all the time, computer viruses, and they are intent  
2 on stealing from you.

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

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

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

17 CHAIRMAN OKESON: Jen Dunbar.

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

22 Voting systems were connected to the Internet,  
23 by the NBC report by Cynthia McFadden last year in  
24 January of 2020, and ballot marking devices are not  
25 honorable.

1           Now I'm going to focus and be more specific on  
2 ES&S, since that's the system. So ES&S, as we know  
3 from the great reporting, broke the law in '18 in  
4 Johnson County by not keeping the firewall box.

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

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

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

24           They also found that ES&S was not very  
25 transparent financially. We don't know who owns

1 it. They won't release their financials at all.

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

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

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

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

25 A lot of the machines in the auto mark that's

1 in our system, every year they have DEF CON, a  
2 voting village, and every year they're able to hack  
3 in with like five minutes. Like children can hack  
4 into all these things.

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

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

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

21 I think we should walk away and run from  
22 machines, not just ES&S but definitely ES&S, and  
23 then you all can count your machine while you're  
24 sitting at the table because you'll have a lot of  
25 it. That's all. Thank you.

1           CHAIRMAN OKESON: No other individuals signed  
2 up to speak.

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

5           CHAIRMAN OKESON: Could you state your name.

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

8           CHAIRMAN OKESON: You didn't list your county.

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

11          VICE CHAIRMAN OVERHOLT: ES&S?

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

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

24          So I really would like -- you've already  
25 approved your minutes, but perhaps this one can

1 reflect that FireEye was contracted for election  
2 security, and they have had issues. As we know  
3 from the previous meeting, we talked about FCC  
4 filing and so forth.

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

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

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

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

23 VICE CHAIRMAN OVERHOLT: Aye.

24 MS. PYLE: Aye.

25 MR. CLAYTOR: Aye.



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

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

5           MR. KING: So moved.

6           CHAIRMAN OKESON: Second?

7           MS. PYLE: Second.

8           CHAIRMAN OKESON: All those in favor?

9           VICE CHAIRMAN OVERHOLT: Aye.

10          MS. PYLE: Aye.

11          MR. CLAYTOR: Aye.

12          CHAIRMAN OKESON: So adjourned. Thank you.

13          (The Indiana Election Commission Public  
14 Session was adjourned at 3:04 p.m.)

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1 STATE OF INDIANA

2 COUNTY OF MARION

3 I, Laurie Morgan, a Notary Public in and for  
4 said county and state, do hereby certify that the  
5 foregoing public section was taken at the time and  
6 place heretofore mentioned between 1:30 p.m. and  
7 3:04 p.m.;

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

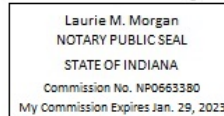
12 IN WITNESS WHEREOF, I have hereunto set my  
13 hand and affixed my notarial seal this 22nd day of  
14 December, 2021.

15

16

*Laurie Morgan*

17



18

19 My Commission expires:  
January 29, 2023

20

Job No. 167897

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