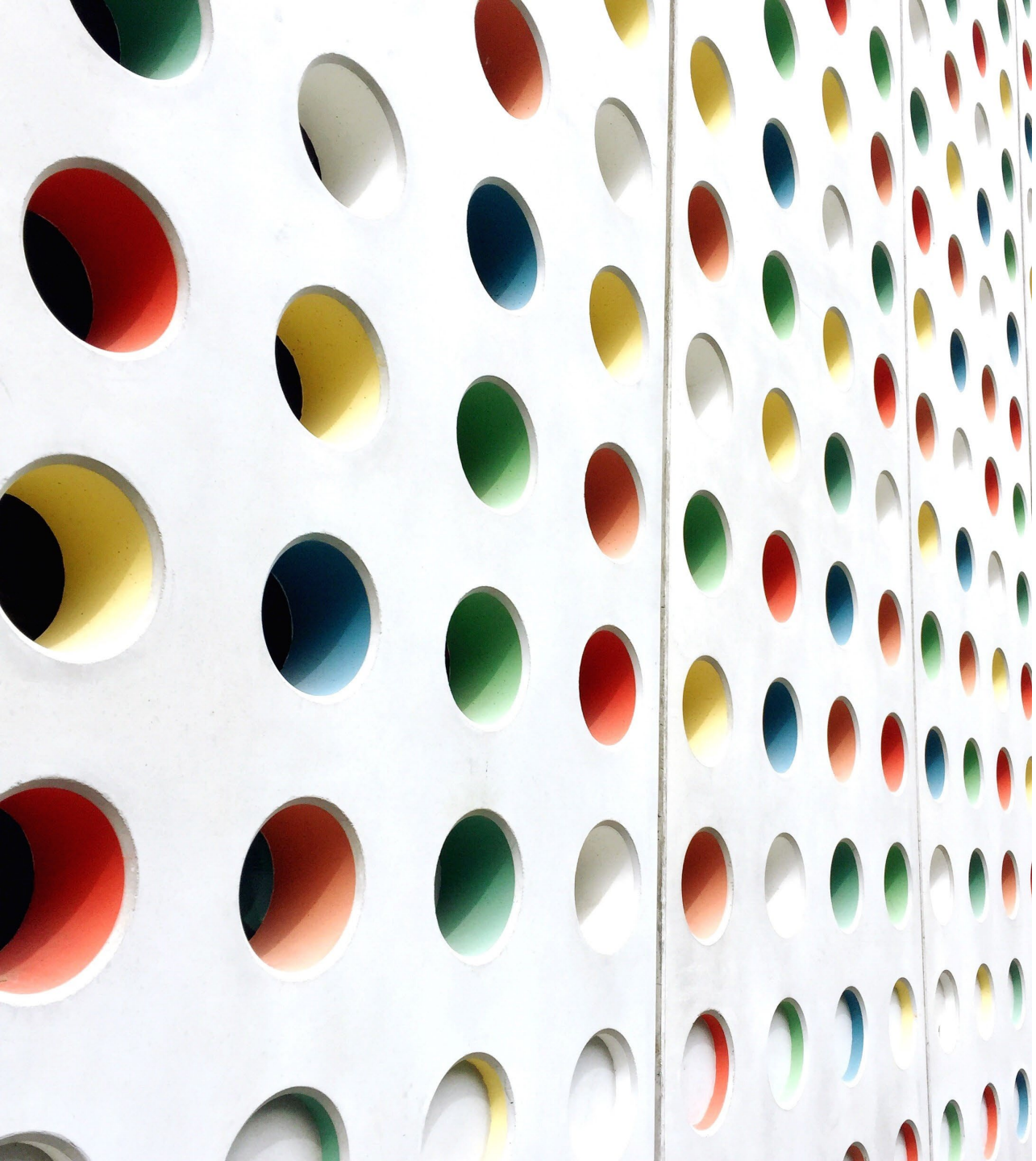


In Support of SB 2386

DERRICK BULAWA

Background

Derrick F. Bulawa

CEO BEK Communications

38 years experience in computers systems & communications systems

Broadcast an election program called “Tomi Time, Election Hotline”, with a notable personality Tomi Collins.

Looking to see if the market would provide feedback on their election experience

I participated in the evaluation of some of the feedback from both voters and candidates.

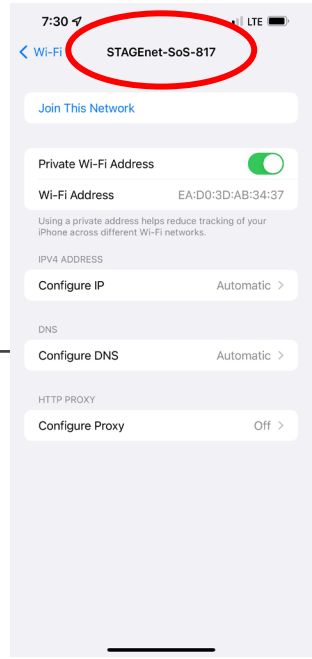
Election Feedback Process

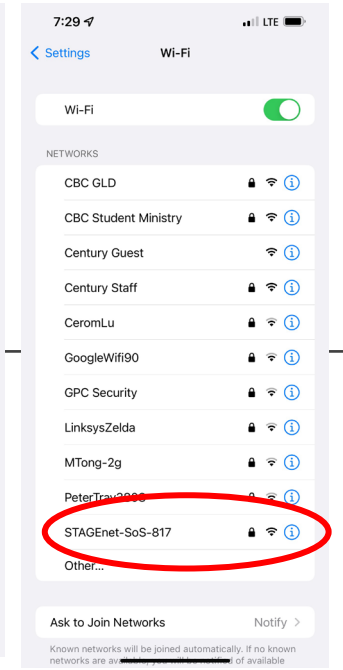
Program:

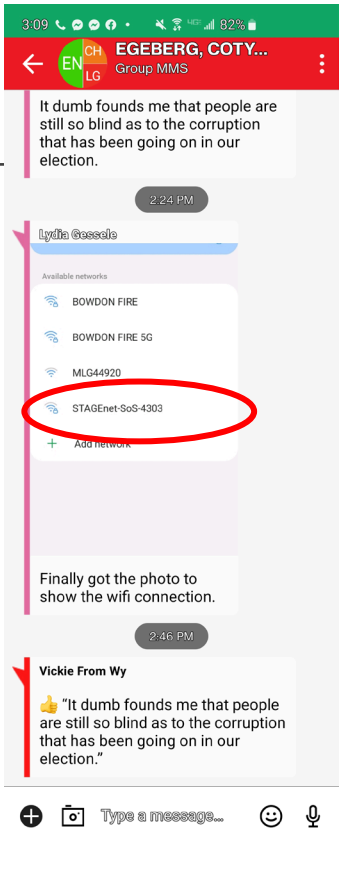
- Aired a 10-minute segment 2 to 3 times per day, soliciting feedback during the election
- Provided both an email and voicemailbox to receive comments from the public
- The comments were reviewed, called back for clarification and/or verification
- Then select comments were aired the next day, to find common points of feedback
- Three Broad categories of feedback will be reviewed today relating to Bill SB 2386

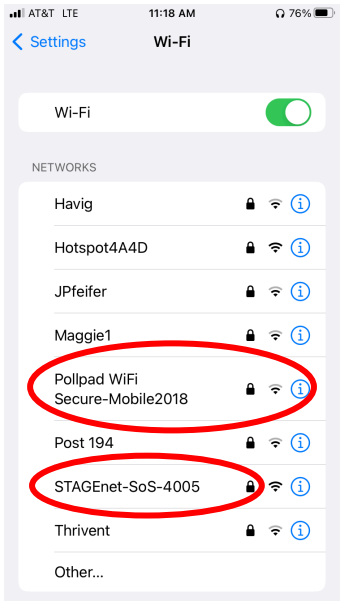
Connectivity and Security

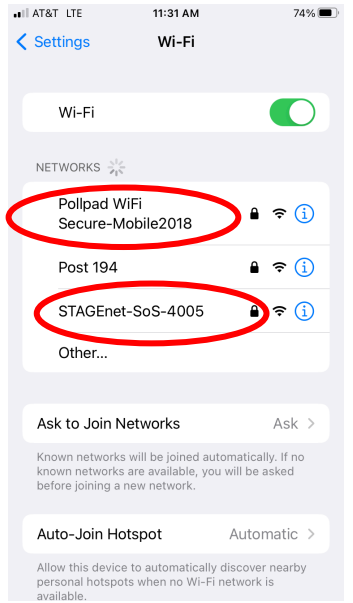
- Viewers screen shots of WIFI access points (SSID)
- STAGEnet-sos-xxx
- Pollpad WIFI Secure-Mobilexxxx





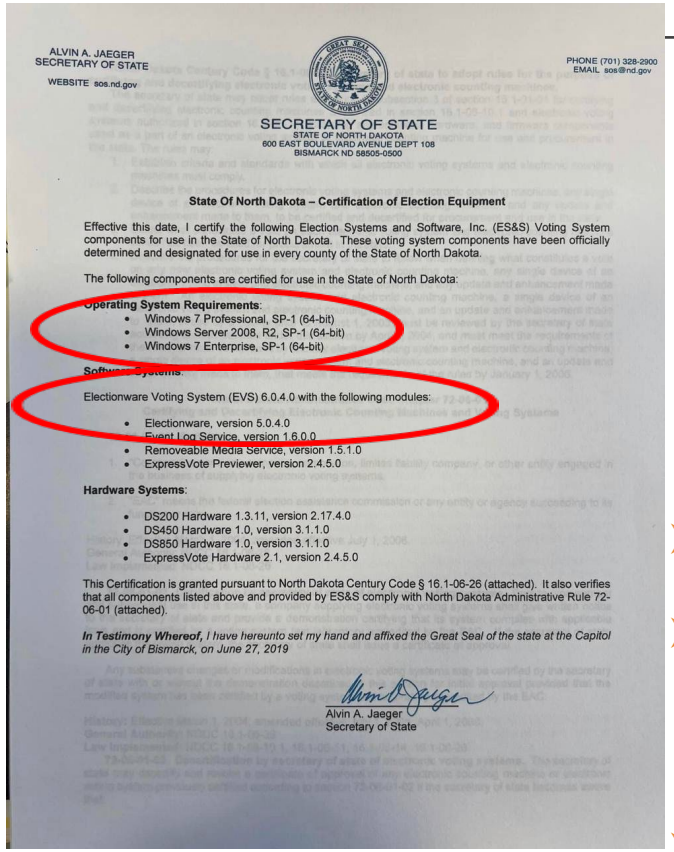






- WIFI access to any network creates a hostile environment
- Poll pad has internet access
- DS 200 Tabulators is architected for internet access via WIFI, LTE, USB & Ethernet, per ES&S Docs.
  - I do not know the DS 200 configuration in ND

Connectivity and Security



ALVIN A. JAEGER
SECRETARY OF STATE
WEBSITE sos.nd.gov

PHONE (701) 328-2900
EMAIL sos@nd.gov

SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

State Of North Dakota – Certification of Election Equipment

Effective this date, I certify the following Election Systems and Software, Inc. (ES&S) Voting System components for use in the State of North Dakota. These voting system components have been officially determined and designated for use in every county of the State of North Dakota.

The following components are certified for use in the State of North Dakota:

Operating System Requirements:
- Windows 7 Professional, SP-1 (64-bit)
- Windows Server 2008, R2, SP-1 (64-bit)
- Windows 7 Enterprise, SP-1 (64-bit)

Software Systems:

Electionware Voting System (EVS) 6.0.4.0 with the following modules:

- Electionware, version 5.0.4.0
- Event Log Service, version 1.6.0.0
- Removeable Media Service, version 1.5.1.0
- ExpressVote Previewer, version 2.4.5.0

Hardware Systems:

- DS200 Hardware 1.3.11, version 2.17.4.0
- DS450 Hardware 1.0, version 3.1.1.0
- DS850 Hardware 1.0, version 3.1.1.0
- ExpressVote Hardware 2.1, version 2.4.5.0

This Certification is granted pursuant to North Dakota Century Code § 16.1-06-26 (attached). It also verifies that all components listed above and provided by ES&S comply with North Dakota Administrative Rule 72-06-01 (attached).

In Testimony Whereof, *I have hereunto set my hand and affixed the Great Seal of the state at the Capitol in the City of Bismarck, on June 27, 2019*

Alvin A. Jaeger
Secretary of State

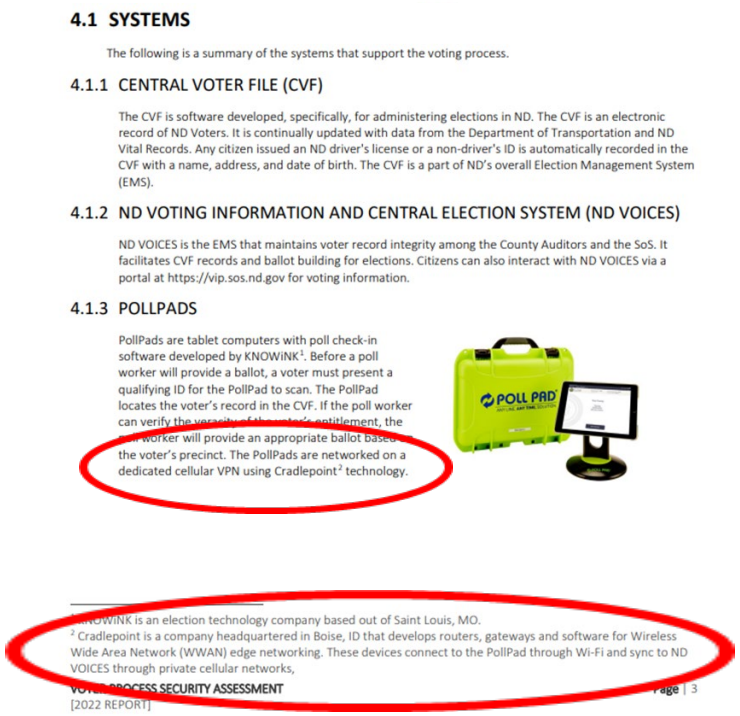
SECUREYETI

4.1.4 DS200

Developed and produced by Election Systems & Software[3] (ESS), This medium-sized machine tabulates votes from marked paper ballots inserted by the voters. The machine cannot operate without a USB drive installed. The USBs used to run the tabulators are programmed for each election by the manufacturer and distributed to the County Auditors by the SoS. The DS200 also has basic quality control functionality. The display will present an error message for overvoting, crossover voting, and blank ballots. Successful ballots are tabulated and stored inside the unit until the polls close. Spoiled ballots stored in a separate bin and eventually returned to the county recorder. Once polls close, the machine produces chits with a record of all votes recorded for every contest on any ballot fed to the machine and the USB drive is removed.

4.1.5 DS450

This machine digitally tabulates votes and operates in the same manner as the DS200. While the DS200 is fed ballots one at a time by voters, the DS450's function is to rapidly tabulate votes from absentee ballots. The DS450 can scan 50 votes per minute.



4.1 SYSTEMS

The following is a summary of the systems that support the voting process.

4.1.1 CENTRAL VOTER FILE (CVF)

The CVF is software developed, specifically, for administering elections in ND. The CVF is an electronic record of ND Voters. It is continually updated with data from the Department of Transportation and ND Vital Records. Any citizen issued an ND driver's license or a non-driver's ID is automatically recorded in the CVF with a name, address, and date of birth. The CVF is a part of ND's overall Election Management System (EMS).

4.1.2 ND VOTING INFORMATION AND CENTRAL ELECTION SYSTEM (ND VOICES)

ND VOICES is the EMS that maintains voter record integrity among the County Auditors and the SoS. It facilitates CVF records and ballot building for elections. Citizens can also interact with ND VOICES via a portal at https://vip.sos.nd.gov for voting information.

4.1.3 POLLPADS

PollPads are tablet computers with poll check-in software developed by KNOWiNK[1]. Before a poll worker will provide a ballot, a voter must present a qualifying ID for the PollPad to scan. The PollPad locates the voter's record in the CVF. If the poll worker can verify the veracity of the voter's entitlement, the poll worker will provide an appropriate ballot based on the voter's precinct. The PollPads are networked on a dedicated cellular VPN using Cradlepoint[2] technology.

[1] KNOWiNK is an election technology company based out of Saint Louis, MO.
[2] Cradlepoint is a company headquartered in Boise, ID that develops routers, gateways and software for Wireless Wide Area Network (WWAN) edge networking. These devices connect to the PollPad through Wi-Fi and sync to ND VOICES through private cellular networks,

- Poll Pad has both WIFI and Cellular Access
- DS200 is Windows 7 released in 2009
  - Is architected for both Wi-Fi and Cellular Access, Per ES&S
  - Windows 7 does not meet today's Cyber Security Standards
- A business running windows 7 today is uninsurable for Cyber Security Risk.

Connectivity and Security Conclusion

- It is reasonable to believe that the DS 200 and the Poll Pad do not meet today's security standards ?
- The Federal Election Commission has not established standards or oversight for Poll pads.
- The public seems skeptical about the security of the North Dakota voting technology.

- A significant physical audit of the DS 200 should be done.
- The Committee should consider mandating a paper ballot, paper pollbook, hand count system
- Sections 1,3,4,5 address these concerns

Obstruction of Open Records Requests

Viewer provided feedback

Obstruction of Open Records Requests – from viewers

From: Newby, Brian <bnewby@nd.gov>
Sent: Sunday, June 26, 2022 11:33 AM
To: Didier, Beth <bdidier@barnescounty.us>; Schlittenhard, Linda M. <lschlitt@nd.gov>; Maloney, Pam L. <pmaloney@nd.gov>; Lamb, Marcia D. <mdlamb@nd.gov>; Wigen, Jenny L. <jwigen@nd.gov>; Schmidt, Jeri G. <jerschmidt@nd.gov>; Nelson, Debbie <debbie.nelson@gfcounty.org>; Faller, Krista <kfaller@nd.gov>; Erickson, Bonnie S. <bserickson@nd.gov>; Jensen, Jeanie S. <jsjensen@nd.gov>; Gellner, Lisa M. <lgellner@nd.gov>; Sheppard, Wanda <wsheppard@nd.gov>; Jastrzebski, Gayle M. <gjastrze@nd.gov>; Dolezal, Tracey K. <tracey.dolezal@dunncountynd.org>; Williams, Patty <pawilliams@nd.gov>; Ohlhauser, Marlys A. <mohlhauser@nd.gov>; Sperry, Tamra L. <tsperry@nd.gov>; Schoenhard, Jean <jschoenhard@nd.gov>; Larson, Samantha M. <samantha.larson@griggscountynd.gov>; Rhone, Dawn R. <dawn.rhone@mortonnd.org>; Fischer, Brenda K. <bkfischer@nd.gov>; Carpenter, Darlene K. <dcarpenter@nd.gov>; Ketterling, Gina L. <gketterl@nd.gov>; Johnsrud, Erica <ejohnsrud@co.mckenzie.nd.us>; Christopherson, Kandy K. <kchristo@nd.gov>; Gentzkow, Nicole <ngentzkow@nd.gov>; Pollman, LeAnn M. <lpollman@nd.gov>; McCloud, Valerie J. <vmccloud@nd.gov>; Murray, Shirley A. <smurray@nd.gov>; Buzalsky, Lorrie <lbuzalsky@nd.gov>; Wigen, Emily M. <ewigen@nd.gov>; Morlock, Joni M. <jmmorlock@nd.gov>; Haugen, Glenda M. <glenda.haugen@co.traill.nd.us>; Molde, Kris K. <kmolde@nd.gov>; Meier, Sara E. <sarmeier@nd.gov>; Foss, Lori A. <lfoss@nd.gov>; Knutson, Beth A. <baknutson@nd.gov>; White, Erika M. <erwhite@nd.gov>; Czapiewski, Amy <ajczapiewski@nd.gov>; Lorenz, Janet <janet.lorenz@dunncountynd.org>; Laib, Tracy <tlaib@nd.gov>; Richardson, Sondra <sorichardson@nd.gov>; Tetrault, Jayne M. <jtetrault@nd.gov>; jason.blowers@wardnd.com <jason.blowers@wardnd.com>; Scherr, Jodi L. <jscherr@nd.gov>; Josh Smaage <jsmaage@stutsmancounty.gov>; Nelson, Linda <linelson@nd.gov>; Oland, Joan M. <joland@co.richland.nd.us>; Schumacher, Mindy <mischumacher@bowmancountynd.gov>; lori.morgan@gfcounty.org <lori.morgan@gfcounty.org>; Mindt, Julie <jmindt@barnescounty.us>; Silrum, Jim <jsilrum@nd.gov>; Menzies, Dawn L. <dmenzies@nd.gov>; Delval, Mary K. <mdelval@co.richland.nd.us>; Lapp, Colleen <clapp@nd.gov>; marisa.haman@wardnd.com <marisa.haman@wardnd.com>; colleen.morstad@gfcounty.org <colleen.morstad@gfcounty.org>; Olsen, Mechelle M. <molsen@co.richland.nd.us>; Oberlander, Kayla L. <kloberlander@nd.gov>; Thomsen, Michelle <mthomsen@co.mckenzie.nd.us>; Weidner, Darin D. <darinw@co.williams.nd.us>; Guderjahn, Terri L. <tlguderjahn@nd.gov>; Andrew, Rebecca <randrew@nd.gov>; misty.hester@wardnd.com <misty.hester@wardnd.com>; Heintz, Renae <rheintz@nd.gov>; Bullinger, Sondra R. <sbullinger@nd.gov>; Winhold, Pamela K. <pwinhold@starkcountynd.gov>; brendaj@co.williams.nd.us <brendaj@co.williams.nd.us>; Eckroth, Belinda K. <belinda.eckroth@mortonnd.org>; Hildebrand, Alicia <hildebranda@casscountynd.gov>; Lunde, Renee L. <rlunde@nd.gov>; Marshall, Lori <lmarshall@barnescounty.us>; Swenson, Sharon <sswenson@nd.gov>; Jackson, Trudy K. <trujackson@nd.gov>; Krance, Kathy J. <kathy.krance@mortonnd.org>; Keller, Britney L. <brkeller@nd.gov>; Anderson, Karla M. <kmanderson@nd.gov>; sallyr@co.williams.nd.us <sallyr@co.williams.nd.us>; Roberts, Nicole <nroberts@starkcountynd.gov>; Jensen, Donna L. <jensend@casscountynd.gov>; Knudson, Tessa M. <tmknudson@nd.gov>; Caya, Brandi M. <brcaya@nd.gov>; Bosch, Gwyn L. <gbosch@nd.gov>; Genter, Corey <cgenter@stutsmancounty.gov>; Alonge, Jessica <jalonge@stutsmancounty.gov>; McLean, Emily <emclean@stutsmancounty.gov>; Hovey, Heather J. <heather.hovey@co.traill.nd.us>; Mecham, Tami D. <tdmecham@nd.gov>; Maier, Christina L. <clmaier@nd.gov>; Walker, Sarah <sarah.walker@wardnd.com>; Roundy, Ellen <eroundy@nd.gov>; McGilvrey, Maureen <mmcgilvrey@stutsmancounty.gov>; Magnuson, Debbie <dmagnuson@barnescounty.us>; Linz, Jason <jlinz@stutsmancounty.gov>; sally.whittingham@dunncountynd.org <sally.whittingham@dunncountynd.org>; Deschamp, Emily R. <emily.deschamp@co.bottineau.nd.us>; Wallace, Madison L. <madison.wallace@griggscountynd.gov>; Zimmerman, Joan R. <joanzimmerman@nd.gov>; Gabert, Amber <agabert@nd.gov>; Risk, Cindy D. <riskc@casscountynd.gov>; McDougall, Tara L. <tlmcdougall@nd.gov>; Vetter, Laurie <lavetter@nd.gov>; Schuh, Lori A. <lschuh@nd.gov>; Grosche, Tiffaney <tiffany.grosche@co.ward.nd.us>; Ellingson, Nancy <nellingson@nd.gov>; Warath, Nikki <nikki.warath@co.ward.nd.us>; sandy.newcomb@mortonnd.org <sandy.newcomb@mortonnd.org>; Ivey, Bernadette <bivey@nd.gov>; Buckhouse, DeAnn <buckhoused@casscountynd.gov>; Heinle, Sarah <heinles@casscountynd.gov>; Volk, Leann <lvolk@nd.gov>; Ward, Robyn <roward@nd.gov>; Hallaway, Cari J. <cjhallaway@nd.gov>; Frank, Kim R. <krfrank@nd.gov>; Walz, Alice <WalzA@casscountynd.gov>; Anderson, Kathy <kaanders@nd.gov>; Emter, Renae J. <renemter@nd.gov>; Woodley, Carrie <cwoodley@bowmancountynd.gov>; Vietmeier, Alan R. <avietmeier@nd.gov>; Guzman, Amber amber.guzman@gfcounty.org>; pekadir@co.mckenzie.nd.us <pekadir@co.mckenzie.nd.us>; deanna.abernathey@co.bottineau.nd.us <deanna.abernathey@co.bottineau.nd.us>; Oland, Joan M. <joland@co.richland.nd.us>; Larson, Shannon R. <slarson@stutsmancounty.gov>; Smithberg, Kim J. <ksmithberg@nd.gov>; karif@co.williams.nd.us <karif@co.williams.nd.us>; Szudera, Cassie <caszudera@nd.gov>; Migler, Karen <kmigler@nd.gov>; vnelson@barnescounty.us <vnelson@barnescounty.us>; hford@co.mckenzie.nd.us <hford@co.mckenzie.nd.us>; shellie.smette@gfcounty.org <shellie.smette@gfcounty.org>; jana.sogge@gfcounty.org <jana.sogge@gfcounty.org>; colin.kennedy@gfcounty.org <colin.kennedy@gfcounty.org>; Oliver, Lee A. <loliver@nd.gov>; Baumgartner, Ofelia <obaumgartner@nd.gov>; Nybakken, Brian <bnybakken@nd.gov>; Jaeger, Al A. <ajaeger@nd.gov>; Newby, Jessica J. <jnewby@nd.gov>; Preskey, Donnell <donnell.preskey@ndaco.org>; Carlson, Claudette <clacarlson@nd.gov>; Weed, Shelly A. <sweed@nd.gov>; Oland, Joan M. <joland@co.richland.nd.us>; Buchwitz, Erin P. <ebuchwitz@nd.gov>; Pappa, Stephanie <stephp@co.mountrail.nd.us>; Halmrast, Sharon <shalmrast@nd.gov>; whitney.walsh@gfcounty.org <whitney.walsh@gfcounty.org>; Hintz, Judith M. <jhintz@nd.gov>; Brenda Johnson <brendaj@co.williams.nd.us>; Innis, Beth M. <bethi@co.williams.nd.us>; Hamlin, Jan J. <jjhamlin@nd.gov>; Deschamp,
Subject: Saturday Freedom of Information Act Request

Good morning, everyone.

Our office has seen an email from a citizen in North Dakota to an auditor, sent Saturday morning, related to a Freedom of Information Act request. We are presuming that all counties have received this same email.

As we have discussed, the Freedom of Information Act is a federal law, but it is conceptually similar to state open records laws. While we think you should discuss all requests with your State's Attorney, our advice is to treat any "Freedom of Information" request as an Open Records Act request, pursuant to NDCC.

The NDCC intends to make many records available upon request, although the key word in this explanation is "records." Your county may assess a cost to recover and produce any records, and many records related to elections are exempt from release because they involve Critical Infrastructure or Security.

In the case of the email sent Saturday, the person asks for files created and reports produced from November 2020.

The starting point on this would be, do you have these reports (as in already produced, not could you make them…)? Presumably, the answer to that is no. If that's the case, it's a simple, short response, that you do not have any responsive records. As always, though, discuss that with your State's Attorney.

If you do have the reports already prepared, the answer likely is different, and please call Brian N[illegible] to discuss.

However, the request also suggests something alarming, that the citizen could provide a USB driv[illegible] PS for this and any future things….the ElectionWare computer is air-gapped. Under no circumstances ever should any USB drive be inserted into the ElectionWare computer that isn't a blue ESS drive or the one-time use drives we send.

Thank you,

Brian D. Newby, CERA
State Election Director | North Dakota Secretary of State
600 E Boulevard Ave | Dept 108
Bismarck, ND 58505-0500
Desk: 701.328.3721
bnewby@nd.gov | sos.nd.gov

The starting point on this would be, do you have these reports (as in already produced, not could you make them…)? Presumably, the answer to that is no.

Obstruction of Open Records Requests – from viewers

- There is currently no statute that mandates a timely response on open records requests for election data.
- One candidate has made open records requests to all 53 counties only receiving valid data from 17.
- Section 7 of this bill addresses this issue.

ARTICLE XIV
ETHICS COMMISSION

Section 1.

1. The people of North Dakota need information to choose candidates for office, vote on ballot measures, and ensure that their representatives are accountable. This transparency must be sufficient to enable the people to make informed decisions and give proper weight to different speakers and messages. The people therefore have the right to know in a timely manner the source, quantity, timing, and nature of resources used to influence any statewide election, election for the legislative assembly, statewide ballot-issue election, and state government action. This right is essential to the rights of free speech, assembly, and petition guaranteed by the First Amendment to the Constitution of the United States and shall be construed broadly.
2. The legislative assembly shall implement and enforce this section by enacting, no more than three years after the effective date of this article, laws that require prompt, electronically accessible, plainly comprehensible, public disclosure of the ultimate and true source of funds spent in any medium, in an amount greater than two hundred dollars, adjusted for inflation, to influence any statewide election, election for the legislative assembly, statewide ballot-issue election, or to lobby or otherwise influence state government action. The legislative assembly shall have an ongoing duty to revise these laws as necessary to promote the purposes of this section in light of changes in technology and political practices. The legislative assembly shall vest by law one or more entities with authority to implement, interpret, and enforce this section and legislation enacted thereunder. If the laws or rules enacted or an implementation, interpretation, or enforcement action taken under this section fail to fully vindicate the rights provided in this section, a resident taxpayer may bring suit in the courts of this state to enforce such rights.

Validation of Who Voted Records

Candidate provided information

Validation of Who Voted Records

- Open records request to Burleigh County yielded two Pollbook files on two different dates, post election certification
- File provided on November 28th listed 35,747 voter records
- File provided on December 13th listed 35,648 voter records
- There is no way to reconcile the two files, or determine which one is correct

- Section 9 & 10 of the Bill with Paper Ballots would give the public a remedy.

Conclusion – Public Concerns

- Connectivity and Security
- Obstruction of Open Records
- Validation of Who Voted Records

- SB 2386 provides practical and usable tools

I recommend a Do Pass on SB2386