NORTH CAROLINA
STATE BOARD OF ELECTIONS

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July 7, 2021

Re: Request for Access to Voting Systems

Dear Representative Kidwell and Members of the House Freedom Caucus,

Thank you for the continued opportunity to address your questions and those of your constituents. You have asked State Board of Elections (State Board) staff whether this agency would allow lawmakers or members of the public to access randomly selected voting systems used in North Carolina counties to determine whether they contain modems.

As the chief State elections official, I must do everything necessary to ensure the integrity and security of voting systems for all seven million-plus voters in North Carolina.

We respectfully decline your request to inspect voting equipment used for elections in the state for the reasons specified below.

DS200 tabulators manufactured by Election Systems and Software (ES&S) and certified for use in North Carolina do not contain modems or modeming capabilities. Neither do the machines manufactured by Hart InterCivic (Hart) that are certified for use in North Carolina. Both companies have verified this with the State Board. State law[1] prohibits the connection of a voting system to any network and requires that any feature allowing connection to a network, including modems, be disabled. In addition, no voting system or associated software is set up for the sending or receiving of data from any ES&S or Hart system in North Carolina. These are the only two voting system vendors currently in operation in the state. For more information on this topic, please see the State Board's previous response to questions raised by Rep. George Cleveland (attached).

Representatives from our agency have met with the House Freedom Caucus on two separate occasions and have responded to numerous requests for information about our voting equipment. In addition, representatives from ES&S have met with the House Freedom Caucus to demonstrate the differences between voting equipment with modeming capability and voting equipment without it, including the exact model used in North Carolina elections.

An email from Rep. Kidwell indicates that ES&S is "willing to take any machine the Freedom Caucus

accesses back to their factory and recertify the system at no cost to the state." We have spoken to several top ES&S officials, and they stated that they were unaware of any commitment by the company to take

[1] N.C.G.S. § 163-165.7(j)

any accessed machines back to their headquarters for recertification. Voting systems vendors do not have the ability to recertify voting equipment. If the equipment is tampered with, it must be replaced.

Federal election security officials warn against any manipulation of voting systems. Voting equipment is considered critical infrastructure in the United States, defined by the Department of Homeland Security's Cybersecurity & Infrastructure Security Agency (CISA) as "assets, systems and networks, whether physical or virtual, (that) are considered so vital to the United States that their incapacitation or destruction would have a debilitating effect on security, national economic security, national public health or safety, or any combination thereof." We safeguard voting equipment as any other critical infrastructure, including our nation's power grid, water supply, and military defenses.

In an email to me, Geoff Hale, director of the Election Security Initiative at CISA, concluded, "Allowing unknown, unauthorized, or inexpert actors physical access to critical infrastructure assets increases the risk of accidental or intentional damage, manipulation, or theft of assets and the data housed on or accessible via those assets. In such cases, the reliability, accuracy, and security of associated equipment and/or data cannot be guaranteed."

Mr. Hale also stated that any access by non-experts "increases the possibility of mischaracterization or misinterpretation of the capabilities or security of those systems. … Further, absent a policy providing for the good-faith disclosure of vulnerabilities, the likelihood increases that a vulnerability (whether real or perceived) could be disclosed in an unsafe manner — potentially leading to risks to the security, or perception of security, of the system in question. This could, in turn, impact additional jurisdictions nationwide that use the same or similar systems."

To that end, the State Board does not permit members of the public to access, manipulate, or disassemble certified voting equipment. Under Rule 08 NCAC 04 .0306, county boards of elections are responsible for the safekeeping, storage, maintenance, and care of voting equipment. Voting systems must be stored in a location such that "access is restricted to county board of elections staff and the system cannot be tampered with when not in use on Election Day."

Numerous safeguards are in place to ensure that the results of each election are accurate. When a county board of elections receives new voting equipment, acceptance testing is conducted in coordination with State Board staff to make sure the equipment delivered is the exact equipment that was ordered. Prior to each election, logic and accuracy testing of every voting machine used in North Carolina takes place to ensure that the machines are working properly and that ballots are properly coded. After Election Day, canvass takes place. Canvass is the official process of determining the votes have been counted and tabulated correctly resulting in the authentication of the official election results. It includes a series of post-election audits, which verify the machine counts of ballots.

After the November 3, 2020 general election, the State Board of Elections in a bipartisan vote, certified the election results for most contests on November 24, 2020. During the days following the election, as required by state law, the county boards, by hand, counted the ballots in more than 150 Election Day precincts and 30 early voting sites and compared those counts to the machine counts. Also, more than a

dozen counties conducted hand-to-eye audits of all mail-in absentee ballots. Of the 200 voting groups audited, only 13 audits found any difference between the machine count and the human count, and all discrepancies were three votes or fewer. Most differences were attributed to human error, such as a voter marking outside of the bubble, or to human error during the hand count itself. In other words, the machines counted ballots accurately.

Results of the hand-to-eye audit are available here. For more information on 2020 general election audits, see "Audit Results for the November 3, 2020 Election." In addition, every ballot in the very close NC Supreme Court Chief Justice contest – about 5.4 million statewide – was re-run through a tabulator as part of a statewide recount, which confirmed the initial contest results. A subsequent sample hand-to eye recount also confirmed the winner in that contest.

The State Board has received no credible evidence that the certified results are not accurate, and elected officials from both sides of the aisle have stated that the 2020 general election in North Carolina was conducted fairly. We will not allow misinformation about voting systems or any other aspect of elections to dictate our priorities in administering elections. Neither the State Board's Investigations Division, nor any law enforcement agency in our state, has received credible evidence that modems caused a single issue in the 2020 election in North Carolina.

North Carolina elections officials at the state and county levels work extremely hard to secure elections for the state's 7 million registered voters, and we strive to improve upon those efforts every day. We do not intend to partake in, nor perpetuate, myths and falsehoods about voting systems or elections. To that end, we've created a "Combating Misinformation" webpage to respond to inaccuracies about elections, which greatly affect voter confidence. We encourage all voters to go to the State Board website, NCSBE.gov, or reach out to their bipartisan state and county elections officials for accurate information about elections. For more information about election security in North Carolina, please read the "Election Security" section of our website.

Sincerely,

Karen Brinson Bell, Executive Director

State Board of Elections