

STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE STATE BOARD OF ELECTIONS

IN THE MATTER OF: PROTEST OF)	
ELECTION BROUGHT BY THOMAS)	
STARK BEFORE THE DURHAM COUNTY)	<u>RECORD ON APPEAL</u>
BOARD OF ELECTIONS)	<u>ASSEMBLED BY STATE BOARD STAFF</u>

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NORTH CAROLINA

State Board of Elections

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NOTICE OF STATE BOARD MEETING

The State Board of Elections will hold a public meeting on **Wednesday, November 30, 2016 at 4:00 p.m.** in its boardroom located at 441 North Harrington Street, Raleigh. Public meeting materials will be available online at <https://goo.gl/8YfisE>.

TENTATIVE AGENDA

Call to order

Statement regarding ethics and conflicts of interest
[G.S. § 138A-15\(e\)](#)

Hearing on appeal of *In re Protest of Election by Thomas Stark* pursuant to
[G.S. §§ 163-182.11\(b\)\(3\)](#) and [163-182.12](#)*

Executive Director Report

Final determination as to classification of existing administrative rules
[G.S. § 150B-21.3A\(c\)\(1\) A](#) (Periodic Rules Review)
[Memorandum](#)

08 NCAC [01](#), [02](#), [03](#), [04](#), [05](#), [06](#), [07](#), [08](#), [09](#), [10](#), and [12](#)

Designation of rulemaking coordinator
[G.S. § 150B-21](#).

Approval of minutes
[G.S. § 163-20\(e\)](#)

[September 19](#), [October 13](#), and [November 27](#)

Adjourn

—
* The Chair will recognize the N.C. Republican Party, N.C. Democratic Party, and candidates appearing on the ballot in Durham County, or their counsel. The Chair hereby designates Durham County Board of Elections Chair William Brian and Interim Director Kate Cosner to appear pursuant to 08 NCAC 2.0110, and may include counsel. Parties wishing to make oral argument must submit a request to do so by email to Legal.Team@ncsbe.gov no later than 5 p.m. on Tuesday, November 29.

Order of Durham County Board of Elections .

STATE OF NORTH CAROLINA
DURHAM COUNTY

BEFORE THE DURHAM COUNTY BOARD OF ELECTIONS

IN THE MATTER OF:)
PROTEST OF 2016 GENERAL)
ELECTION BROUGHT BY)
THOMAS STARK

ORDER

THIS MATTER CAME ON FOR A HEARING BEFORE THE DURHAM COUNTY BOARD OF ELECTIONS ("Durham Board") on its first day of canvass, November 18, 2016, concerning the results of the General Election of 2016 in Durham County, following the filing of a protest on November 11, 2016 by Thomas Stark, a registered voter in Durham County, alleging that the tabulation and counting of votes for the general election for all candidates in 2016 "appears to have been dramatically corrupted in a manner that may affect the outcome of a number of election contests" and issues on the ballot for early voting and November 8, 2016. (See Protest of Thomas Stark, p. 1)

On November 16, 2016, the Durham Board conducted a preliminary hearing pursuant to N.C.Gen.Stat. § 163-182.10 (a)(1) entitled: Consideration of protest by county board of elections, to determine whether the protest substantially complied with N.C.Gen.Stat. § 163-182.9 and whether it established probable cause to believe that a violation of election law or irregularity or misconduct occurred. The Durham Board allowed Mr. Stark to amend his protest to reflect his home address of 105 Highway Drive, Durham, North Carolina rather than the business address initially provided on the protest, thereby establishing Mr. Stark's residency in Durham County. (Preliminary hearing In the Matter of Protest of General Election Brought by Thomas Stark, hereinafter "PC hearing", Tr. 16).

During the preliminary hearing, the Durham Board received in evidence the affidavit of Brian Neesby, as a Business Systems Analyst at the North Carolina State Board of Elections ("SBE")(PC hearing Tr. 5-11) and received testimony from: Mr. Stark, that provided a forecast of the anticipated evidence (PC hearing, Tr. 16-24, 35-39, 43-47); Kathy Rogers, a senior vice president of Government Relations for Elections Systems and Software ("ES&S")(PC hearing Tr. 25-28), Ben Swartz,

the ES&S State engineer for North Carolina (PC hearing Tr. 28-34), Interim Director of Elections Kate Cosner (PC hearing 40-42). The Durham Board, by a majority vote of two to one, determined that probable cause was present that warranted a hearing which was scheduled for Friday, November 18, 2016.

The Durham Board conducted a hearing pursuant to N.C.Gen.Stat. §163-182.10 (c) on November 18, 2016 that was recorded by Garrett Reporting Services. A *pro hac vice* application by Attorney Kevin Hamilton, counsel to the North Carolina Democratic Party, was approved by the Durham Board without any objection. Mr. Thomas Stark, an attorney duly admitted to practice law in the State of North Carolina, represented himself.

Sworn testimony was received in evidence from Brian Neesby, a Business Systems Analyst at the North Carolina State Board of Elections; Kate Cosner, Interim Director Durham County Board of Elections; John Posthill, a Durham County voter and volunteer election day observer; Michael Gray, precinct 22 judge; John Lloyd, a Durham County resident; Jackie Wagstaff, a Durham County resident; Ms. Jackson, a Durham County resident; and Ms. Handera (phonetic) a Durham County resident. A chart created by Mr. Neesby was also received in evidence as exhibit 1 and a Press Release was entered in evidence as Exhibit 2.

Pursuant to N.C.Gen. Stat 163-182.10 (c) the Durham Board, after reviewing written submissions, sworn testimony of the witnesses and hearing argument from the parties, finds, concludes, and orders the following:

FINDINGS OF FACT

1. The Durham Board has jurisdiction pursuant to N.C.Gen.Stat. § 163-182.10 to hear the protest of Thomas Stark, a Durham County resident and voter during the general election for 2016.
2. On November 8, 2016 Durham County held elections for thirty-three (33) contests in the 2016 general election, including one contest for five (5) members of the Durham County Board of Commissioners. The Board of Commissioners contest allowed every voter to make up to five (5) selections in the single contest.
3. Election results for these contests included early voting results for five one-stop early voting locations in Durham County during the 2016 general election:

Durham County Board of Elections Office, North Regional Library, South Regional Library, East Regional Library, and ENO River Unitarian Universalist Fellowship.

4. During early voting and on November 8, 2016, voted ballots are fed into the M100 tabulation machine that reads and tabulates the ballot totals. Digital records produced by the tabulation machines are maintained and fed into the Unity Voting System ("Unity") developed by Elections Systems Software, LLC (ES&S). Votes that are tabulated by the M100 machines are recorded in a binary file called a ".spp." file to which the PCMCIA card reads. On election night, the PCMCIA cards from the early voting sites and one precinct would not upload to the Unity program. The results were manually entered by Kate Cosner, Interim Director from the M100 record that is printed out on paper tapes. Manual entry was conducted under the bipartisan observation of Durham Board Secretary Dawn Baxton and Durham Board Member Margaret Griffin as well as under the supervision of Veronica Degraffenreid of the State Board of Elections. Chairman Brian and Senior Assistant Durham County Attorney Marie Costello Inserra also observed the manual entry.
5. On or about November 11, 2016, Mr. Brian Neesby, Business Systems Analyst at the North Carolina State Board of Elections ("SBE") was instructed by SBE Executive Director Kimberly Westbrook Strach to review data generated during the tabulation of ballots cast at the following one-stop early voting locations in Durham County during the 2016 general election: Durham County Board of Elections Office, North Regional Library, South Regional Library, East Regional Library, and ENO River Unitarian Universalist Fellowship.
6. Mr. Neesby has access to business records relating to voter registration that are stored within the Statewide Election Information Management System ("SEIMS"), a suite of databases and applications maintained by and in the custody of the State Board. He also has access to digital records produced by the tabulation machines and fed into the Unity software developed ES&S.
7. On or about November 11, 2016, Durham Board Interim-Director Kate Cosner provided Mr. Neesby a digital file reflecting audit logs of user inputs into Unity on Tuesday, November 8. She also provided a folder from Unity that contained the binary file to which the PCMCIA card reads. This file is called the ".spp file".

8. Between Saturday, November 12 and Sunday, November 13, Mr. Neesby reviewed the Unity logs and election results contained within the Statewide Election Information Management System ("SEIMS"), a suite of databases and applications maintained by and in the custody of the State Board. Mr. Neesby's review was to identify possible causes for a Unity error that occurred when Durham CBE staff attempted to load tabulation data stored on five Personal Computer Memory Card International Association (PCMCIA) cards. Following ordinary practice of auditing manual entries, Mr. Neesby decoded the .spp file and compared the results to the manual entries that were input into Unity.
9. Unity software aggregates results that are read from PCMCIA cards or manually entered by elections officials based on tally sheets or paper tapes printed by machine tabulators.
10. Mr. Neesby reviewed Unity logs that record attempts to load results from the five PCMCIA cards into the Unity tabulation system on the evening of November 8. The Unity logs indicate that an error occurred and that results from the PCMCIA cards were not successfully read into the Unity machine and aggregated with other county-level results.
11. There exists a memory limitation within the Unity software - not the PCMCIA cards - such that no single card can successfully record results to the .spp file when any single contest contains more than 65,535 votes due to the fact that results are read onto only two bytes of memory (two bytes of memory can represent a number between 0 and 65,535). Results for the Board of Commissioners contest exceeded 65,535 in the aggregate and thereby exceeded the limitation of two bytes of memory.
12. The Unity logs reflect that data from the PCMCIA card was in fact recorded within Unity, but could not be added to other results within the county.
13. ES&S has independently verified that the Unity error arose from a limitation that did not permit so many votes to be input in a single contest from each PCMCIA card. This error did not impact the accuracy of the record of votes contained on the printed tape. The memory limitation effected the reading of all contests but stemmed from the number of candidates in the Durham County Board of Commissioner contest, not the Governor's contest.

14. The results data that would have printed to the tapes was in fact recorded in Unity, though the memory limitation described above did not allow the results to be aggregated and uploaded with results from the other PCMCIA cards.

15. A battery failure in the PCMCIA cards was likely to have been the cause of the issue in Precinct 29, but the printed tape similarly is an accurate record of the votes tabulated in that Precinct.

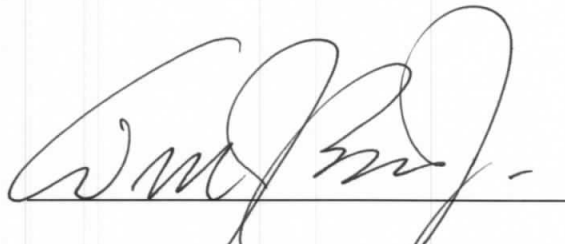
16. In the Governor's contest, the numbers entered into the Unity software were identical to the numbers manually entered into the Unity System. The contest totals were accurately recorded into the Unity software but could not be uploaded in the aggregate. There were some minor scrivener's errors in other contests as noted in Exhibit 1, but none that changed the outcome or cast doubt on the apparent results of the any election.

Upon a unanimous decision of the Durham Board, it is, therefore, **ORDERED:**

The protest of Thomas Stark is dismissed in its entirety because there is not substantial evidence of a violation of the election law or other irregularity or misconduct.

Protestor's request for a recount is denied.

This is the 28th day of November, 2016.

A handwritten signature in black ink, appearing to read 'W. J. Brian, Jr.', is written over a horizontal line.

William J. Brian, Jr., Chair
Durham County Board of Elections

Appeal of Election Protest to State Board of Elections

08 NCAC 02 .0112 APPEAL TO THE STATE BOARD OF ELECTIONS

All appeals of a county board of election protest decision must use the following form:

APPEAL OF ELECTION PROTEST TO STATE BOARD OF ELECTIONS

(Use of this form is required by G. S. 163-182.11 (a))

A copy of this appeal must be given to the county board of elections within 24 hours (weekends and holidays excluded) after the county board files its written decision at its office. This same appeal must be filed with or mailed to the State Board of Elections by the end of the second day following the county board decision if the protest involves a first primary. As to a protest of any other election, this appeal must be filed or deposited in the mail by the end of the fifth day following the county board decision. See G.S. 163-182.11 (a). A copy of the original election protest form with attachments must be filed with this appeal. A copy of the county board decision must be filed with this appeal. The county board will provide the record on appeal. As many additional sheets as are necessary to answer the questions below may be attached, but they must be numbered. Please print or type your answers.

1. **Full name, mailing address, home and business phone, fax number, and e-mail address of undersigned.** Thomas H. Stark, 105 Kyleway Dr. Chapel Hill NC, 27517, phone (919) 270-9282 thomas@starklawgroup.com
2. **Are you the person who filed the original protest, a candidate or office holder adversely affected by the county decision, or someone else whose interest has been adversely affected by the county decision?** Yes.
3. **State the date, place, kind of election, and results of the election protested (if different from the information on the election and its results as set out in the attached original protest form).** See original protest form.
4. **State the name, mailing address, home phone, and business phone of all candidates involved in the protested election.**
This appeal is from a general election. See original protest. Specifically, the positions impacted are Governor and Auditor.
5. **State the date of the county board hearing:** November 18, 2016.
6. **State the legal and factual basis for your appeal.** NCGS Chapter 163, Articles 14A (Voting) and 15 (Counting Ballots, etc.) Failure of Tabulators to correctly count ballots for five early voting sites and one Election Day precinct. Manufacturer claims that the error was caused by a software limitation of its operating system (the system could not tabulate the number of votes it was called to report in the early voting sights), and the fact that Durham County utilized the tabulators in a way that took them beyond the specified limits (by using the one tabulator in each early voting sight, the failure should have been anticipated). The evidence demonstrates that all of the data discussed in the hearing is from the same PCMCIA card utilized in the tabulators, therefore, an independent verification of the reported results has not been performed. At this point it cannot be determined whether the number of ballots in the sealed boxes from the several tabulators equal the reported results or not. That determination cannot be made until the ballots are counted.
7. **Is there any material submitted with this appeal that was not presented to and considered by the county board? Is so, please identify and state why it was not presented to the county board. Why do you think the State Board of Elections should consider it?** There are a number

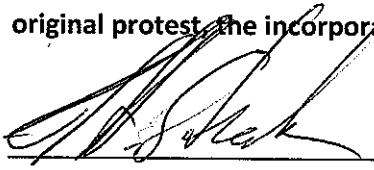
of anomalies in Durham that appear to have impacted the outcome of this election. There are a series of protests and/or appeals pending before the State Board or the Durham County Board of Elections. It was established in one precinct that a provisional ballot was run through the tabulator in error, allegedly due to deficient availability of adequately trained staff. The provisional ballot was voted in a precinct other than the ones at issue in this protest. The State Board of Elections should direct Durham County to hand count all ballots voted in this election, carefully examining the ballots for provisional markings, as part of considering this appeal that also tests the viability and reliability of the County's tabulating equipment. The State Board of Elections should assist Durham in determining how many ineligible voters cast ballots in this election. In addition to the provisional ballot illegally voted, it appears that several persons who were ineligible to vote due to their status in the criminal justice system actually cast votes in Durham. Durham has refused to allow the public to review any documents submitted with absentee ballots, despite repeated requests. (See separate appeal submitted this date.) Finally, Durham has a number of Same Day Registrations that the appellant does not believe to be verified, or verified with the level of scrutiny that is warranted. Also enclosed are three pages of data that has been collected from voter registration records and which demonstrate the substantial increase in the number of voters removed from voting rolls in the three months following a general election when contrasted with off year elections, or local election years. Also included are figures for numbers of voters removed from the rolls following the 2012 election in some other nearby urban counties. The number of removed voters are more than the amount necessary to decide the races referred to above, namely Governor and Auditor.

The existence of the number of anomalies together with the number of ballots involved, over 94,000, or even a small fraction of them, can change the outcome of the election if not properly tabulated.

8. **Normally the State Board will make its decision in an appeal based upon the record from the county board. If you desire the record in this matter to be supplemented, additional evidence to be considered, or a completely new hearing, please state such desire and why it should be allowed in this appeal. See G.S. 163-182.11 (b).** Given the error that have been committed in Durham earlier this year, the errors committed in this election, and the closeness of several races, the public is entitled to be assured that an accurate result has been reported and that only eligible voters have voted. The State Board should fully investigate the voters questioned (or additional ineligible voters identified by the State Board of Elections, which has far more effective resources), assure the public that only eligible voters voted, and provide corrected totals.
9. **What relief do you seek? Why?** The Appellant requests the consideration of all appeals coming to the Board from Durham County, that the State Board exercise control of all protests pending in Durham County, that the State Board carefully consider the eligibility of the voters in Durham County, and remove the votes of persons ineligible to vote from the voting results, whether ineligible as a felon, deceased, voted in another jurisdiction, not domiciled in Durham County, in the precinct indicated, not a Citizen, or for some other reason, that the State Board order Durham County to hand count the ballots to insure no provisional ballots were voted without being properly approved by the Durham County Elections Board, and, further, that the totals are accurately reported. (The Appellant is well aware that the issues which present in Durham

County may well apply in other counties as well, and require additional scrutiny by the State Board.)

10. Have you read and reviewed G.S. 163-182.11 through G.S. 163-182.14 and the current North Carolina State Board of Elections regulations on appeals of election protests? Yes.
11. Besides a copy of the original protest and the county board decisions, this appeal includes 0 pages of additional answers and 3 pages of exhibits and documents not included in the original protest, the incorporated other appeals and the various decisions.

 11/26/2016 Signature of Person Appealing

Date Appeal Signed Date appeal received by State Board of Elections

(To be entered by the State Board of Elections staff) Send your appeal to, or if you have questions contact: North Carolina State Board of Elections, P.O. Box 27255, Raleigh, NC 27611-7255, (919) 733-7173.

Durham County Historic Data Comparison

Date	County	Democrats	Republicans	Libertarians	Unaffiliated	White	Black	American Indian	Other	Hispanic	Male	Female	Total
12/25/2010	DURHAM	111,990	28,374	292	43,780	96,979	71,682	433	3,959	3,175	79,594	101,375	184,436
2/5/2011	DURHAM	110,509	27,891	299	43,277	95,864	70,550	428	3,879	3,127	78,543	99,998	181,976
		-1,481	-483	7	-503	-1,115	-1,132	-5	-80	-48	-1,051	-1,377	-2,460
12/31/2011	DURHAM	111,820	28,377	334	45,405	98,000	71,758	448	4,178	3,340	80,135	102,259	185,936
2/4/2012	DURHAM	112,276	28,526	338	45,829	98,458	72,205	449	15,857	3,375	80,576	102,815	186,969
		456	149	4	424	458	447	1	11,679	35	441	556	1,033
12/29/2012	DURHAM	125,763	30,332	622	56,773	108,165	82,915	560	21,850	5,066	91,588	116,511	213,490
2/2/2013	DURHAM	119,611	28,269	624	53,377	101,489	79,294	525	20,573	4,802	86,399	110,316	201,881
		-6,152	-2,063	2	-3,396	-6,676	-3,621	-35	-1,277	-264	-5,189	-6,195	-11,609
12/28/2013	DURHAM	117,998	27,847	675	54,139	101,717	77,900	523	20,519	4,888	85,749	109,886	200,659
2/1/2014	DURHAM	118,120	27,895	686	54,288	101,944	77,970	524	20,551	4,898	85,889	110,081	200,989
		122	48	11	149	227	70	1	32	10	140	195	330
12/27/2014	DURHAM	121,978	28,416	854	59,269	105,450	81,561	569	22,937	5,468	89,956	114,189	210,517
2/7/2015	DURHAM	117,724	27,257	844	57,002	101,015	79,226	541	22,045	5,295	86,481	110,153	202,827
		-4,254	-1,159	-10	-2,267	-4,435	-2,335	-28	-892	-173	-3,475	-4,036	-7,690
12/26/2015	DURHAM	118,605	27,784	885	59,286	103,277	80,138	556	22,589	5,650	88,180	112,373	206,560
2/6/2016	DURHAM	118,914	27,907	887	59,704	103,726	80,399	555	22,732	5,778	88,565	112,873	207,412
		309	123	2	418	449	261	-1	143	128	385	500	852

Notice ONLY the years of Federal Elections do we see this LARGE purge of voters. I honestly believe this is due to Same Day Register / Vote (SDRV)

Recent Durham County Voter Stats --- 2016 ONLY

	County	Democrats	Republicans	Libertarians	Unaffiliated	White	Black	American Indian	Other	Hispanic	Male	Female	Total
11/8/2016	DURHAM	129,682	29,895	1,079	71,772	114,904	86,460	633	30,431	7,649	99,032	124,459	232,428
10/29/2016	DURHAM	128,053	29,595	1,055	70,794	113,685	85,387	627	29,798	7,448	97,561	123,077	229,497
Added Voters 10 Days		1,629	300	24	978	1,219	1,073	6	633	201	1,471	1,382	2,931
11/8/2016	DURHAM	129,682	29,895	1,079	71,772	114,904	86,460	633	30,431	7,649	99,032	124,459	232,428
11/5/2016	DURHAM	128,966	29,743	1,069	71,337	114,347	85,973	631	30,164	7,540	98,360	123,851	231,115
Added Voters 3 Days		716	152	10	435	557	487	2	267	109	672	608	1,313
11/8/2016	DURHAM	129,682	29,895	1,079	71,772	114,904	86,460	633	30,431	7,649	99,032	124,459	232,428
10/15/2016	DURHAM	126,263	29,307	1,003	68,399	111,854	84,399	616	28,103	7,114	95,671	121,176	224,972
Added since Registration Cutoff		3,419	588	76	3,373	3,050	2,061	17	2,328	535	3,361	3,283	7,456

Other Counties 2012 data comparison --- Purged voters after 2012 General election

12/29/2012	County	Democrats	Republicans	Libertarians	Unaffiliated	White	Black	American Indian	Other	Hispanic	Male	Female	Total
2/2/2013	GUILFORD	177,590	100,104	1,127	84,598	216,855	124,317	1,039	21,208	5,466	160,827	201,102	363,419
	GUILFORD	170,384	95,915	1,135	81,019	207,231	119,690	989	20,543	5,340	154,107	192,876	348,453
		7,206	4,189	8	3,579								

-14,966

12/29/2012	County	Democrats	Republicans	Libertarians	Unaffiliated	White	Black	American Indian	Other	Hispanic	Male	Female	Total
2/2/2013	FORSYTH	110,082	78,914	733	57,740	165,131	68,737	469	13,132	4,957	109,112	135,322	247,469
	FORSYTH	106,192	76,213	744	55,787	159,302	66,437	454	12,743	4,880	105,370	130,576	238,936
		3,890	2,701	11	1,953								

-8,533

12/29/2012	County	Democrats	Republicans	Libertarians	Unaffiliated	White	Black	American Indian	Other	Hispanic	Male	Female	Total
2/2/2013	MECKLENBURG	312,039	181,592	2,129	184,493	401,889	217,921	1,923	58,520	18,819	302,442	366,945	680,253
	MECKLENBURG	299,064	169,943	2,161	175,251	378,132	210,051	1,818	56,418	18,328	286,683	349,172	646,419
		12,975	11,649	32	9,242								

-33,834

Durham County Historic Data Comparison

Date	County	Democrats	Republicans	Libertarians	Unaffiliated	White	Black	American Indian	Other	Hispanic	Male	Female	Total
11/29/2008	DURHAM	118,233	30,526	151	44,303	102,322	74,876	427	4,121	3,051	83,543	106,233	193,213
2/7/2009	DURHAM	111,707	28,223	158	41,266	95,155	71,032	402	3,706	2,986	78,368	99,722	181,354
		-6,526	-2,303	7	-3,037	-7,167	-3,844	-25	-415	-65	-5,175	-6,511	-11,859
12/25/2010	DURHAM	111,990	28,374	292	43,780	96,979	71,682	433	3,959	3,175	79,594	101,375	184,436
2/5/2011	DURHAM	110,509	27,891	299	43,277	95,864	70,550	428	3,879	3,127	78,543	99,998	181,976
		-1,481	-483	7	-503	-1,115	-1,132	-5	-80	-48	-1,051	-1,377	-2,460
12/31/2011	DURHAM	111,820	28,377	334	45,405	98,000	71,758	448	4,178	3,340	80,135	102,259	185,936
2/4/2012	DURHAM	112,276	28,526	338	45,829	98,458	72,205	449	15,857	3,375	80,576	102,815	186,969
		456	149	4	424	458	447	1	11,679	35	441	556	1,033
12/29/2012	DURHAM	125,763	30,332	622	56,773	108,165	82,915	560	21,850	5,066	91,588	116,511	213,490
2/2/2013	DURHAM	119,811	28,269	624	53,377	101,489	79,294	525	20,573	4,802	86,399	110,316	201,881
		-6,152	-2,063	2	-3,396	-6,676	-3,621	-35	-1,277	-264	-5,189	-6,195	-11,609
12/28/2013	DURHAM	117,998	27,847	675	54,139	101,717	77,900	523	20,519	4,888	85,749	109,886	200,659
2/1/2014	DURHAM	118,120	27,895	686	54,288	101,944	77,970	524	20,551	4,898	85,889	110,081	200,989
		122	48	11	149	227	70	1	32	10	140	195	330
12/27/2014	DURHAM	121,978	28,416	854	59,269	105,450	81,561	569	22,937	5,468	89,956	114,189	210,517
2/7/2015	DURHAM	117,724	27,257	844	57,002	101,015	79,226	541	22,045	5,295	86,481	110,153	202,827
		-4,254	-1,159	-10	-2,267	-4,435	-2,335	-28	-892	-173	-3,475	-4,036	-7,690
12/26/2015	DURHAM	118,605	27,784	885	59,286	103,277	80,138	556	22,589	5,650	88,180	112,373	206,560
2/6/2016	DURHAM	118,914	27,907	887	59,704	103,726	80,399	555	22,732	5,778	88,565	112,873	207,412
		309	123	2	418	449	261	-1	143	128	385	500	852

STATE OF NORTH CAROLINA
WAKE COUNTY
BEFORE THE STATE BOARD OF ELECTIONS

IN THE MATTER OF: IN RE PROTEST OF
ELECTION BY THOMAS STARK

**BRIEF OF COOPER FOR NORTH
CAROLINA AND NORTH
CAROLINA DEMOCRATIC PARTY**

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INTRODUCTION

In this appeal, Protester Thomas Stark asks this Board to reverse the decision of the Durham County Board of Elections dismissing his protest of the canvass of the 2016 general election for the office of the Governor of the State of North Carolina. Yet, Mr. Stark stands before this Board empty handed, bereft of any argument, much less *evidence*, to support his protest or his contention that the Durham County Board erred in dismissing his protest. In the absence of such argument, or evidence, the Cooper for North Carolina Campaign and the North Carolina Democratic Party respectfully submit that this Board should dismiss the appeal and reject Mr. Stark's protest.

ARGUMENT

I. THERE IS NO SUBSTANTIAL EVIDENCE OF A VIOLATION OF THE ELECTION LAW OR OTHER IRREGULARITY OR MISCONDUCT WITH RESPECT TO THE TABULATION OF VOTES IN DURHAM COUNTY

Under North Carolina law, this Board must dismiss a protest unless there is “substantial evidence” of any violation, irregularity, or misconduct sufficient to cast doubt on the results of the election. *See* N.C. Gen. Stat. § 163-182.11(b) (requiring State Board to follow the procedures set forth in subsections (c) and (d) of G.S. 163-182.10 except where they are clearly inapplicable). On November 18, the Durham County Board of Elections (“Durham CBOE”) held an exhaustive hearing, in which it allowed Mr. Stark to present evidence and heard additional testimony from impartial expert witnesses. Mr. Stark was provided with a full and complete opportunity to present any evidence or argument he wished to present.

In a unanimous vote, based on the comprehensive record before it, the Durham CBOE concluded that “there is not substantial evidence of a violation of the election law or other irregularity or misconduct.” Order of the Durham County Board of Elections (“Durham Order”) at § 16. Mr. Stark now appeals that decision to this Board.

But Mr. Stark's notice of appeal offers no additional evidence to supplement the record. Moreover, it does not question, let alone impeach, the testimony of any witness who appeared before the Durham CBOE. The appeal instead contends that “an independent verification of the

reported results has not been performed” and that “it cannot be determined whether the number of ballots in the sealed boxes from the several tabulators equal the reported results or not” and, finally, that such a “determination cannot be made until the ballots are counted.” Stark Appeal at § 6. None of this provides a basis to overturn the decision of the Durham County Board.

First, as a matter of well-settled North Carolina *law*, Mr. Stark’s argument is an insufficient basis on which to protest an election. It does not allege any violation, irregularity, or misconduct committed by any Durham County official or employee—the minimum pleading requirement to compel State Board intervention. *See* .C. Gen. Stat. § 163-182.10(d)(2)b. The appeal should be dismissed on this basis alone.

And as a matter of *fact*, Mr. Stark’s contention is simply false. A State Board of Elections employee, Brian Neesby, *did* undertake an independent verification of the reported results and found that the tabulation in the Governor’s race was correct. Mr. Stark’s suggestion that the determination of whether the number of ballots in the sealed boxes equals the reported results “cannot be made” until the ballots are “counted” ignores the fact that the ballots *have already been counted* pursuant to the procedures set forth in state law. If Mr. Stark believes the regulations adopted by the State Board are insufficient, he is welcome to ask the this Board to modify or supplement them. But he cannot ask the State Board to intervene in a protest unless he shows that those procedures were violated and that such violations cast doubt on the results of the election.

Mr. Stark has failed to do so. His protest, accordingly, should be dismissed.

A. The Protestor Has Not Provided “Substantial Evidence” of a Violation of Law, Irregularity, or Other Misconduct

The protest should be dismissed because there is no evidence, much less “substantial evidence,” of any violation of law, irregularity, or other misconduct. Mr. Stark’s protest before the Durham County Board of Elections claimed that it was “wholly unreasonable” for the CBOE to rely on the results contained on the internal memory (DRAM) built into the relevant M100 ballot machines to produce a printout of the voting results for those machines and then to

transcribe those results. *See* County Board Protest § 5.

But the protest fails to explain why those actions were “wholly unreasonable,” much less offer any evidentiary support for such a claim. Instead, the evidence shows that the actions of the CBOE were both eminently reasonable and entirely compliant with state law and procedure. As the CBOE’s Statement Regarding Minor Complications on Election Day explains:

- The CBOE and SBOE were in regular communication throughout Election Day and a member of the SBOE staff was stationed with the CBOE;
- After discovering that certain PCMCIA cards could not be uploaded, the CBOE notified and consulted with the SBOE and the vendor of the PCMCIA cards to discuss proposed solutions;
- The SBOE representative and the CBOE “decided that the information on the result tapes should be manually entered into the state’s system using a bi-partisan team, under supervision of the State Board representative”;
- The manual data entry process began at the direction of the SBOE representative, and the bi-partisan team was made up of one Democratic and one Republican member of the CBOE and the interim Director of Elections for Durham County;
- The data entry process took place in the main board room under the supervision of the SBOE representative, the Chairman of the CBOE, and an Assistant County Attorney, and other observers were also present; and
- An interim report was prepared and a spot check was conducted by the SBOE representative, a member of the CBOE’s staff, and the Chairman of the CBOE to ensure that the data entry process was accurate.

Durham County Board of Elections Statement Regarding Minor Complications on Election Day, Nov. 13, 2016, *available at* <http://dconc.gov/Home/Components/News/News/2938/31>. In addition, testimony at Durham County’s preliminary hearing established that the CBOE called Election Systems & Software’s (ESS) “technical help desk when the error was encountered and asked for guidance and [ESS] walked [the CBOE] through the manual entry process.” Trans. of 11/16/16 Prelim. Hrg. Before the CBOE at 18 (testimony of Kathy Rogers). *See also* Durham CBOE Order at § 4 (“The results were manually entered by Kate Cosner, Interim Director from

the M-100 record that is printed out on paper tapes. Manual entry was conducted under the bipartisan observation of Durham Board Secretary Dawn Baxton and Durham Board Member Margaret Griffin as well as under the supervision of Veronica Degraffenreid of the State Board of Elections. Chairman Brian and Senior Assistant Durham County Attorney Marie Costello Inserra also observed the manual entry.”).

In the hearing, Ben Swartz, the state certification manager for Election Systems & Software, was asked by Chairman Brian the following:

Mr. Brian: In your professional opinion, based on your understanding of the way that the technology operates, is it reasonable for the Durham County Board of Elections and the State Board of Elections to rely upon the data that is contained on the tape?

Mr. Swartz: Yes, they should rely on the tape.

Mr. Brian: Even though the cards didn't read into the Unity system; is that correct?

Mr. Swartz: Correct.

Trans. of 11/18/16. Hrg. Before the CBOE (Tr.) at 48. Durham County was in full compliance with the manufacturer's recommendations for that voting equipment.

In his appeal, Mr. Stark notably does not dispute *any* of these facts. The CBOE consulted with the appropriate parties. It ensured that the results were recorded by a bi-partisan team. It conducted the data entry process under the supervision of credible, neutral parties and with observers present. And it conducted a check to make sure that the vote totals at issue were accurately recorded. The actions of the CBOE, in short, were not only wholly reasonable but commendable—a model response to the situation at hand. That response most assuredly did not constitute a violation of the law, irregularity, or misconduct.

Mr. Stark's appeal should be dismissed on this ground as well. He presents no argument or evidence to support his appeal of the Durham County Board's decision. The facts are, indeed, undisputed. On this record, this Board should dismiss the appeal and affirm the Durham County Board's dismissal of Mr. Stark's protest.

B. The Protest Has Not Cast Doubts on the Results of the Election

The protest should also be dismissed because Mr. Stark's allegations do not cast doubts on the result of the gubernatorial election.

1. Mr. Stark's Speculation Regarding the Five Early Voting Precincts is Incorrect

Mr. Stark's protest to the Durham CBOE speculated that the reported results could have been inaccurate for either of two reasons: (1) the DRAM built into the M100 ballot machines at issue could have been corrupted or (2) transcription errors may have occurred. *See* Protest §§ 5, 9. But the evidence presented to the Durham CBOE showed Mr. Stark's speculation to be simply wrong as a matter of fact.

The crux of Mr. Stark's claim is that there was something wrong with the PCMCIA cards that were loaded into the Unity software. But Mr. Neesby determined that the failure of the Unity software to aggregate data from the PCMCIA cards from the five early vote sites had nothing to do with the cards themselves. Rather, it was the result of a memory limitation within the Unity software that uploads the data from the cards. Neesby Aff. ¶ 13 ("Based on my review of the Unity logs, it is my opinion that there exists a memory limitation within the Unity software—not the PCMCIA cards—such that no single card can successfully record results to the .spp file when any single contest contains more than 65,535 votes due to the fact that results are read onto only two bytes of memory. Results for the Board of Commissioners contest exceeded this limitation.").

Mr. Neesby reiterating this explanation during the hearing. (Tr. at 18-19) Relying on Mr. Neesby's testimony and that of ESS, the Durham CBOE concluded that "the Unity error arose from a limitation that did not permit so many votes to be input in a single contest from each PCMCIA card" and that the error "stemmed from the number of candidates in the Durham County Board of Commissioner contest, not the Governor's contest."¹ Durham Order at § 13.

¹ Testimony at the preliminary hearing from ESS representatives also confirmed this conclusion. Kathy Rogers, the Senior Vice President of Government Relations for ESS, explained that the inability to upload data on Election Day was the result of a limitation that "is in every M100 system in the nation. It's not an error, it's just simply a limitation." Tr. at 16-17. And Ben Swarz, the State Certification Manager for North Carolina for ESS, testified that the cards at issue are not corrupted and that the inability of the software to read certain PCMCIA cards should have

In his initial protest, Mr. Stark also suggested that the manual entry of the data into the Unity software from the five early vote sites may have been incorrect. But this claim, too, has been disproven. First, the data from the PCMCIA cards “was in fact recorded in Unity”; it just could not “be aggregated with results from the other PCMCIA cards.” Neesby Aff. ¶ 15. As a result, Mr. Neesby was able to compare the data recorded from the PCMCIA cards with the manually entered data.

Contest and Candidate Information		SPP File out of Unity					Manual Entries				
Contest	Candidate	One-Stop Sites					One-Stop Sites				
		0058	0059	0060	0061	0062	0058	0059	0060	0061	0062
1016_NC GOVERNOR	Lon Cecil	192	276	320	216	240	192	276	320	216	240
1016_NC GOVERNOR	OVER VOTE	5	4	1	3	4	5	4	1	3	4
1016_NC GOVERNOR	Pat McCrory	1166	6613	3078	3909	3185	1166	6613	3078	3909	3185
1016_NC GOVERNOR	Roy Cooper	17379	12341	18471	10667	14752	17379	12341	18471	10667	14752
1016_NC GOVERNOR	UNDER VOTE	176	119	103	80	100	176	119	103	80	100
1016_NC GOVERNOR	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281

Neesby Aff., Ex. 1 at 1 of 3 (modified to exclude non-gubernatorial elections).

During the hearing, Mr. Neesby was asked: “So Mr. Neesby, with respect to the numbers that you compared in particular with the governor's race, the numbers that were read onto the Unity software, were they identical to the numbers that were manually entered by the Durham County Board of Elections?” He answered: “For the governor's race, yes.” (Tr. at 20).

As the Durham CBOE concluded, and as the above chart shows, “[i]n the Governor's contest, the numbers entered into the Unity software were identical to the numbers manually entered into the Unity System.” Durham Order at § 16. Second, the tapes from the M-100 machines provided by the Durham CBOE identically match the manually entered data as well. *See* Ex. A. The evidence thus conclusively shows that the gubernatorial results the CBOE

had no impact on the tapes that were used on Election Day to determine what the results at issue were. Tr. at 16, 20-21, 25.

reported on Election Day were in fact accurate.² Mr. Stark has offered no evidence to the contrary.

2. Mr. Stark Has Shown No Evidence of Inaccuracies For Precinct 29

Mr. Neesby did not examine the data from Precinct 29. But there is no reason to doubt the accuracy of the printed tape that the Durham CBOE used to enter the results. The Durham CBOE concluded that “[a] battery failure in the PCMCIA cards was likely to have been the cause of the issue in Precinct 29, but the printed tape similarly is an accurate record of the votes tabulated in that Precinct.” Durham Order at § 15.

The Protest notes that the M100 user manual states that “if the scanner encounters a problem reading a block of data from the PC Card,” the “results stored to the scanner’s DRAM may be corrupt,” *see* Protest Attach. at 86; *see also* Protest § 5. The Protest then alleges that a “corrupt” DRAM could have produced inaccurate tabulations. This is not possible, as both the manual and testimony from the hearing demonstrates. Mr. Swartz, the state certification manager for Election Systems & Software, stated: “If the tape printed, the card was functioning? That is correct.” (Tr. at 47). He was also asked: “If there is a corruption on the card, would it affect the accuracy of the tape? Is there any way that the numbers on the card and the tape could be different?” He answered: “No, not at all.” (Tr. at 48). And the reason was made apparent later in the hearing: after consultation with “the engineer of the M100,” he testified that the tape is in fact “printed from the actual PCMCIA card, the file -- the results file that’s residing on -- on the card.” (Tr. at 74). In other words, the Protest’s hypothesis is impossible, according to the manufacturers of the voting equipment used in this election.

3. Mr. Stark’s Does Not Offer New Evidence or Challenge the Durham CBOE’s Factual Findings

Mr. Stark’s appeal does not offer any new evidence or challenge any factual findings made by the Durham CBOE. His argument amounts to the following:

² Even if there were legitimate reasons to be concerned about transcription errors—and there are not—such errors would be corrected through the regular canvassing process and do not provide a basis for a protest.

The evidence demonstrates that all of the data discussed in the hearing is from the same PCMCIA card utilized in the tabulators, therefore, an independent verification of the reported results has not been performed. At this point it cannot be determined whether the number of ballots in the sealed boxes from the several tabulators equal the reported results or not. That determination cannot be made until the ballots are counted.

This contention is simply false. The ballots have been counted. Mr. Neesby did perform an independent verification of the results for the five early stop sites. And in the governor's race, the results recorded in Unity match the manually entered results, which in turn match the results on the machine tapes. There is no evidence that the results from Precinct 29 are in error. The Durham CBOE fully complied with the statute in tabulating the results. Mr. Stark offers no evidence to the contrary.

C. The SBE Lacks Authority to Order a Hand Recount At This Stage

In addition to the problems set forth above, the relief requested by the protestor—a manual hand-count of ballots prior to any audit or canvass—is not permissible. In the initial recount of marksense, punch card, and optical scan ballots,³ all ballots originally counted by the equipment “are to be counted again by the optical scan equipment producing another machine count.” 8 N.C. Admin. Code § 9.0107(a).

II. THE ADDITIONAL MATERIAL CITED BY MR. STARK IS IRRELEVANT TO HIS PROTEST AND SHOULD NOT BE CONSIDERED BY THE BOARD

Section 7 of the State Board of Elections' appeals form asks the appellant to provide “any material submitted with this appeal that was not presented to and considered by the county board”; to “identify and state why it was not presented to the county board”; and to explain why “the State Board of Elections should consider it.” Rather than provide additional factual evidence in support of his underlying legal claim—that Durham erred in its tabulation of votes—Mr. Stark uses Section 7 to include a litany of unrelated and specious legal claims. The SBE should not consider any of these legal claims on appeal.

³ The M100 uses a mark-sense ballot that is fed into a scanning machine. See <https://www.verifiedvoting.org/resources/voting-equipment/ess/m100/>.

First, several of the legal claims presented by Mr. Stark in Section 7 were not filed as protests with the Durham CBOE.⁴ North Carolina law requires that protests be filed with county boards in the first instance. N.C. Gen. Stat. § 163-182.9(a). There is no provision that allows for the filing of protests directly with the SBE.

Second, Mr. Stark lacks standing to appeal any protest (other than the tabulation protest) to the SBE. North Carolina law provides that “[t]he decision by the county board of elections on an election protest may be appealed to the State Board of Elections by any of the following: (1) [t]he person who filed the protest; (2) [a] candidate or elected official adversely affected by the county board's decision; (3) [a]ny other person who participated in the hearing and has a significant interest adversely affected by the county board's decision.” *Id.* § 163-182.11(a). Mr. Stark does not meet any of these criteria, except for the tabulation protest.

Third, Mr. Stark fails to offer the SBE any reason to reverse the decision of the Durham County Board with respect to the protests it has considered. For example, Mr. Stark’s appeal refers to a protest that John Posthill filed alleging that an “absentee ballot mill” operated in Durham County.⁵ Mr. Posthill’s only “evidence” for this claim was the fact that the North Carolina Democratic Party made contributions to the Durham Committee on the Affairs of Black People and the Durham People’s Alliance. No evidence was presented that either of the two PACs operated an “absentee ballot mill.” Accordingly, the Durham County Board found no probable cause that to believe that a violation of election law or irregularity or misconduct had occurred. *See* N.C. Gen. Stat. § 163-182.10(a)(1). Mr. Stark’s appeal presents no additional evidence in support of this specious allegation.

⁴ Mr. Stark writes: “Finally, Durham has a number of Same Day Registrations that the appellant does not believe to be verified, or verified with the level of scrutiny that is warranted. Also enclosed are three pages of data that has been collected from voter registration records and which demonstrate the substantial increase in the number of voters removed from voting rolls in the three months following a general election when contrasted with off year elections, or local election years. Also included are figures for numbers of voters removed from the rolls following the 2012 election in some other nearby urban counties. The number of removed voters are more than the amount necessary to decide the races referred to above, namely Governor and Auditor.” We have not identified any complaints filed with the Durham County Board that make these legal claims.

⁵ The protest can be found here:

[https://s3.amazonaws.com/dl.ncsbe.gov/Requests/2016_General_Election_\(post\)/Protests/Durham_Posthill_\(Absentee_Fraud\).pdf](https://s3.amazonaws.com/dl.ncsbe.gov/Requests/2016_General_Election_(post)/Protests/Durham_Posthill_(Absentee_Fraud).pdf)

Finally, several of these claims are not ripe for consideration. On November 28, 2016, this Board ordered county boards to “dismiss a protest of election that merely disputes the eligibility of a voter” and reaffirmed that “[a] successful protest must prove the occurrence of an outcome-determinative violation of election law, irregularity, or misconduct.” SBE Order (Nov. 28, 2016) at §§ 3, 6. The claims involving alleged voting by felons, deceased individuals, and those casting ballots in other states dispute the eligibility of individual voters and do not prove the occurrence of an outcome-determinative violation of election law.


For these reasons, the SBE should not consider the additional legal claims set forth in Section 7 of the appeal.

CONCLUSION

The Durham County Board provided Mr. Stark with a full and fair opportunity to come forward with “substantial evidence” to support his protest. He utterly failed -- by any measure -- to meet that standard and the Board properly dismissed his protest. On appeal, he provides no basis, in law or in fact, to disturb that result. With all due respect, this Board should affirm the Durham County Board of Election’s decision and dismiss Mr. Stark’s protest.

DATED: November 29, 2016

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EXHIBIT A

Durham County, NC
Durham County, NC General Election
0058 OS-BOE
Election Date: November 08, 2016
OS-BOE

Ballot Types:
all

18918
Total: 18918

*** Voting Results Report ***
16:51:43 11/08/2016

Durham County, NC
Durham County, NC General Election
0058 OS-BOE
Election Date: November 08, 2016
Total Number Voting: 18918

Precinct Results Report

OS-BOE

Total Ballots	18918
Ballots for Code 00001-01-01	5229
Ballots for Code 00002-01-01	2262
Ballots for Code 00003-01-01	1554
Ballots for Code 00004-01-01	393
Ballots for Code 00005-01-01	3188
Ballots for Code 00006-01-01	5288
Ballots for Code 00007-01-01	59
Ballots for Code 00008-01-01	451
Ballots for Code 00009-01-01	51
Ballots for Code 00010-01-01	37
Ballots for Code 00011-01-01	58
Ballots for Code 00012-01-01	348

1001_US PRESIDENT

REP-Donald J. Trump	1006
DEM-Hillary Clinton	17420
LIB-Gary Johnson	241
Write In	182
Over Votes	1
Under Votes	68
Total Votes	18918

1002_US SENATE

REP-Richard Burr	1277
DEM-Deborah K. Ross	17165
LIB-Sean Haugh	274
Over Votes	7
Under Votes	195
Total Votes	18918

1380_US HOUSE OF REPRESENTATIVES D CONGR

REP-H. Powell Dew, Jr.	1030
DEM-G. K. Butterfield	16646
LIB-J.J. Summerell	341
Over Votes	3
Under Votes	404
Total Votes	18424

1383_US HOUSE OF REPRESENTATIVES D CONGR

REP-Sue Googe	57
DEM-David Price	423
Over Votes	0
Under Votes	14
Total Votes	494

Under Votes 404

Total Votes 18424

1383_US HOUSE OF REPRESENTATIVES D CONGR

REP-Sue Googe 57

DEM-David Price 423

Over Votes 0

Under Votes 14

Total Votes 494

1016_NC GOVERNOR

REP-Pat McCrory 1166

DEM-Roy Cooper 17379

LIB-Lon Cecil 192

Over Votes 5

Under Votes 176

Total Votes 18918

1395_NC LIEUTENANT GOVERNOR

REP-Dan Forest 1204

DEM-Linda Coleman 16998

LIB-Jacki Cole 339

Over Votes 4

Under Votes 373

Total Votes 18918

1022_NC ATTORNEY GENERAL

REP-Buck Newton 1158

DEM-Josh Stein 17321

Over Votes 5

Under Votes 434

Total Votes 18918

1019_NC AUDITOR

REP-Chuck Stuber 1635

DEM-Beth A. Wood 16646

Over Votes 6

Under Votes 631

Total Votes 18918

1023_NC COMMISSIONER OF AGRICULTUR

REP-Steve Troxler 1754

DEM-Walter Smith 16566

Over Votes 2

Under Votes 596

Total Votes 18918

1025_NC COMMISSIONER OF INSURANCE

REP-Mike Causey 1242

DEM-Wayne Goodwin 17001

Over Votes 2

Under Votes 673

Total Votes 18918

1024_NC COMMISSIONER OF LABOR

REP-Cherie Berry 1730

DEM-Charles Meeker 16602

Write In 20

Over Votes 7

Under Votes 559

Total Votes 18918

1018_NC SECRETARY OF STATE

REP-Michael LaPaglia 1112

1018.NC SECRETARY OF STATE

REP-Michael LaPaglia	1112
DEM-Elaime Marshall	17286
Over Votes	6
Under Votes	514
Total Votes	18918

1021.NC SUPERINTENDENT OF PUBLIC I

REP-Mark Johnson	1219
DEM-June Atkinson	17104
Over Votes	5
Under Votes	590
Total Votes	18918

1020.NC TREASURER

REP-Dale R. Folwell	1396
DEM-Dan Blue III	16935
Over Votes	3
Under Votes	584
Total Votes	18918

1045.NC STATE SENATE DIST 20 NC SENATE D

DEM-Floyd B. McKissick, Jr.	9862
LIB-Barbara Howe	810
Over Votes	16
Under Votes	369
Total Votes	11057

1047.NC STATE SENATE DIST 22 NC SENATE D

REP-T. Greg Doucette	904
DEM-Mike Woodard	6686
Over Votes	1
Under Votes	270
Total Votes	7861

1104.NC HOUSE OF REPRESENTATIVES D NC HD

DEM-Larry D. Hall	6414
Over Votes	0
Under Votes	537
Total Votes	6951

1105.NC HOUSE OF REPRESENTATIVES D NC HD

REP-Elissa Fuchs	436
DEM-Paul Luebke	3393
Over Votes	1
Under Votes	136
Total Votes	3966

1106.NC HOUSE OF REPRESENTATIVES D NC HD

DEM-H.M. (Mickey) Michaux, Jr.	6856
Over Votes	0
Under Votes	635
Total Votes	7491

1125.NC HOUSE OF REPRESENTATIVES D NC HD

REP-Rod Chaney	119
DEM-Graig R. Meyer	362
Over Votes	1
Under Votes	28
Total Votes	510

0001.DURHAM CO BD OF COMMISSIONER

0001_DURHAM CO BD OF COMMISSIONER
Number to Vote For: 5

DEM-Heidi Carter	14743
DEM-James Hill	14585
DEM-Brenda Howerton	14707
DEM-Wendy Jacobs	14778
DEM-Ellen Reckhow	14539
Write In	213
Over Votes	2270
Under Votes	18755

Total Votes	94590
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0002_DURHAM CO REGISTER OF DEEDS

DEM-Sharon A. Davis	17088
Over Votes	0
Under Votes	1830

Total Votes	18918
-------------	-------

1393_NC SUPREME COURT ASSOCIATE JU

Michael R. (Mike) Morgan	14344
Robert H. (Bob) Edmunds	2611
Over Votes	7
Under Votes	1956

Total Votes	18918
-------------	-------

1198_NC COURT OF APPEALS JUDGE (ST

REP-Phil Berger, Jr.	1146
DEM-Linda Stephens	17103
Over Votes	3
Under Votes	666

Total Votes	18918
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1396_NC COURT OF APPEALS JUDGE (GE

REP-Hunter Murphy	1060
DEM-Margaret Eagles	16564
UNA-Donald Ray Bute	557
Over Votes	9
Under Votes	728

Total Votes	18918
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1197_NC COURT OF APPEALS JUDGE (HU

REP-Bob Hunter	1546
DEM-Abe Jones	16594
Over Votes	4
Under Votes	774

Total Votes	18918
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1199_NC COURT OF APPEALS JUDGE (DI

REP-Richard Dietz	1388
DEM-Vince Rozier	16702
Over Votes	2
Under Votes	826

Total Votes	18918
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1373_NC COURT OF APPEALS JUDGE (ZA

REP-Valerie Zachary	1467
DEM-Ricky McKoy-Mitchell	16608
Over Votes	3
Under Votes	840

Total Votes	18918
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1283_NC DIST COURT JUDGE DIST 14 (14TH

William A. (Drew) Marsh III	4396
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Total Votes 18918

1283_NC DIST COURT JUDGE DIST 14 (14TH

William A. (Drew) Marsh III	4396
Shanteka LaCher Rhinehart	12908
Over Votes	30
Under Votes	1584

Total Votes 18918

0003_SOIL AND WATER CONSERVATION D

Dantelle Adams	14949
Michael Van Sickle	1648
Write In	65
Over Votes	9
Under Votes	2247

Total Votes 18918

0004_SCHOOL BONDS

Yes	16752
No	1370
Over Votes	16
Under Votes	780

Total Votes 18918

0006_LIBRARY FACILITIES BONDS

Yes	16348
No	1766
Over Votes	11
Under Votes	793

Total Votes 18918

0005_COMMUNITY COLLEGE BONDS

Yes	16754
No	1381
Over Votes	7
Under Votes	776

Total Votes 18918

0007_MUSEUM BONDS

Yes	15968
No	2150
Over Votes	5
Under Votes	795

Total Votes 18918

WE, THE UNDERSIGNED, DO HEREBY CERTIFY
THAT THE ABOVE RESULTS ARE A TRUE AND
ACCURATE ACCOUNT OF THE ELECTION HELD
NOVEMBER 8, 2016, AND THAT ALL
COUNTERS WERE ZERO (0) WHEN THE POLLS
OPENED AND THAT THE ELECTION WAS HELD
IN ACCORDANCE WITH THE LAWS OF THE
STATE OF NORTH CAROLINA

CHIEF JUDGE

JUDGE

JUDGE

*** Status Report ***
17:18:30 11/08/2016

Durham County, NC
Durham County, NC General Election
0059 OS-NRL
Election Date: November 08, 2016
OS-NRL

Ballot Types:
all

19353
Total: 19353

*** Voting Results Report ***
17:18:32 11/08/2016

Durham County, NC
Durham County, NC General Election
0059 OS-NRL
Election Date: November 08, 2016
Total Number Voting: 19353

Precinct Results Report

OS-NRL

Total Ballots	19353
Ballots for Code 00001-01-01	5138
Ballots for Code 00002-01-01	797
Ballots for Code 00003-01-01	51
Ballots for Code 00004-01-01	36
Ballots for Code 00005-01-01	2781
Ballots for Code 00006-01-01	211
Ballots for Code 00007-01-01	714
Ballots for Code 00008-01-01	9569
Ballots for Code 00009-01-01	6
Ballots for Code 00010-01-01	7
Ballots for Code 00011-01-01	5
Ballots for Code 00012-01-01	38

1001_US PRESIDENT

REP-Donald J. Trump	6442
DEM-Hillary Clinton	12090
LIB-Gary Johnson	424
Write In	262
Over Votes	10
Under Votes	125
Total Votes	19353

1002_US SENATE

REP-Richard Burr	6916
DEM-Deborah K. Ross	11800
LIB-Sean Haugh	451
Over Votes	3
Under Votes	183
Total Votes	19353

1380_US HOUSE OF REPRESENTATIVES D CONGR

REP-H. Powell Dew, Jr.	6438
DEM-G. K. Butterfield	11768
LIB-J.J. Sunnerell	501
Over Votes	2
Under Votes	588
Total Votes	19297

1383_US HOUSE OF REPRESENTATIVES D CONGR

REP-Sue Googe	17
DEM-David Price	39
Over Votes	0

Total Votes 19297

1383_US HOUSE OF REPRESENTATIVES D CONGR

REP-Sue Googe 17
DEM-David Price 39
Over Votes 0
Under Votes 0

Total Votes 56

1016_NC GOVERNOR

REP-Pat McGrory 6613
DEM-Roy Cooper 12341
LIB-Lon Cecil 276
Over Votes 4
Under Votes 119

Total Votes 19353

1395_NC LIEUTENANT GOVERNOR

REP-Dan Forest 7019
DEM-Linda Coleman 11570
LIB-Jack Cole 389
Over Votes 3
Under Votes 372

Total Votes 19353

1022_NC ATTORNEY GENERAL

REP-Buck Newton 6445
DEM-Josh Stein 12414
Over Votes 1
Under Votes 493

Total Votes 19353

1019_NC AUDITOR

REP-Chuck Stuber 6523
DEM-Beth A. Wood 12067
Over Votes 1
Under Votes 762

Total Votes 19353

1023_NC COMMISSIONER OF AGRICULTUR

REP-Steve Trowler 7847
DEM-Walter Smith 10921
Over Votes 0
Under Votes 585

Total Votes 19353

1025_NC COMMISSIONER OF INSURANCE

REP-Mike Causey 6329
DEM-Wayne Goodwin 12265
Over Votes 1
Under Votes 758

Total Votes 19353

1024_NC COMMISSIONER OF LABOR

REP-Cherie Berry 7284
DEM-Charles Meeker 11430
Write In 15
Over Votes 6
Under Votes 618

Total Votes 19353

1018_NC SECRETARY OF STATE

REP-Michael LaPaglia 6042
DEM 10077

REP-Michael LaPaglia	6042
DEM-Elaine Marshall	12677
Over Votes	2
Under Votes	632
Total Votes	19353

1021.NC SUPERINTENDENT OF PUBLIC I

REP-Mark Johnson	6278
DEM-June Atkinson	12408
Over Votes	0
Under Votes	667
Total Votes	19353

1020.NC TREASURER

REP-Dale R. Folwell	6777
DEM-Dan Blue III	11866
Over Votes	2
Under Votes	708
Total Votes	19353

1045.NC STATE SENATE DIST 20 NC SENATE D

DEM-Floyd B. McKissick, Jr.	4825
LIB-Barbara Howe	886
Over Votes	6
Under Votes	395
Total Votes	6112

1047.NC STATE SENATE DIST 22 NC SENATE D

REP-T. Greg Doucette	5293
DEM-Mike Woodard	7339
Over Votes	2
Under Votes	607
Total Votes	13241

1104.NC HOUSE OF REPRESENTATIVES D NC HO

DEM-Larry D. Hall	234
Over Votes	0
Under Votes	39
Total Votes	273

1105.NC HOUSE OF REPRESENTATIVES D NC HO

REP-Elissa Fuchs	1133
DEM-Paul Luebke	1575
Over Votes	2
Under Votes	152
Total Votes	2862

1106.NC HOUSE OF REPRESENTATIVES D NC HO

DEM-H. M. (Mickey) Michaux, Jr.	5037
Over Votes	0
Under Votes	898
Total Votes	5935

1125.NC HOUSE OF REPRESENTATIVES D NC HO

REP-Rod Chaney	4485
DEM-Graig R. Meyer	5346
Over Votes	1
Under Votes	451
Total Votes	10283

0001.DURHAM CO BD OF COMMISSIONER
Number to Vote For: 5

0001.DURHAM CO BD OF COMMISSIONER
Number to Vote For: 5

DEM-Heidi Carter	12385
DEM-James Hill	12346
DEM-Brenda Howerton	11844
DEM-Wendy Jacobs	12085
DEM-Ellen Reckhow	12680
Write In	280
Over Votes	1560
Under Votes	33585
Total Votes	96765

0002.DURHAM CO REGISTER OF DEEDS

DEM-Sharon A. Davis	14698
Over Votes	0
Under Votes	4655
Total Votes	19353

1393.NC SUPREME COURT ASSOCIATE JU

Michael R. (Mike) Morgan	10769
Robert H. (Bob) Edmunds	5955
Over Votes	10
Under Votes	2619
Total Votes	19353

1198.NC COURT OF APPEALS JUDGE (ST

REP-Phil Berger, Jr.	6435
DEM-Linda Stephens	12199
Over Votes	5
Under Votes	714
Total Votes	19353

1396.NC COURT OF APPEALS JUDGE (GE

REP-Hunter Murphy	6285
DEM-Margaret Eagles	11384
UNA-Donald Ray Bute	797
Over Votes	9
Under Votes	878
Total Votes	19353

1197.NC COURT OF APPEALS JUDGE (HU

REP-Bob Hunter	7120
DEM-Abe Jones	11283
Over Votes	3
Under Votes	947
Total Votes	19353

1199.NC COURT OF APPEALS JUDGE (DI

REP-Richard Dietz	6907
DEM-Vince Rozier	11443
Over Votes	3
Under Votes	1000
Total Votes	19353

1373.NC COURT OF APPEALS JUDGE (ZA

REP-Valerie Zachary	7080
DEM-Ricky McRoy-Mitchell	11220
Over Votes	2
Under Votes	1051
Total Votes	19353

1283.NC DIST COURT JUDGE DIST 14 (14TH

William A. (Drew) Marsh III	8062
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Total Votes 19353

1283_NC DIST COURT JUDGE DIST 14 (14TH

William A. (Drew) Marsh III 8062
Shanteka LaCher Rhinehart 8681
Over Votes 8
Under Votes 2602

Total Votes 19353

0003_SOIL AND WATER CONSERVATION D

Danielle Adams 12380
Michael Van Sickle 3134
Write In 122
Over Votes 5
Under Votes 3712

Total Votes 19353

0004_SCHOOL BONDS

Yes 14457
No 4092
Over Votes 11
Under Votes 793

Total Votes 19353

0006_LIBRARY FACILITIES BONDS

Yes 13499
No 4944
Over Votes 4
Under Votes 906

Total Votes 19353

0005_COMMUNITY COLLEGE BONDS

Yes 14158
No 4306
Over Votes 4
Under Votes 885

Total Votes 19353

0007_MUSEUM BONDS

Yes 13373
No 5089
Over Votes 2
Under Votes 889

Total Votes 19353

WE, THE UNDERSIGNED, DO HEREBY CERTIFY
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ACCURATE ACCOUNT OF THE ELECTION HELD
NOVEMBER 8, 2016, AND THAT ALL
COUNTERS WERE ZERO (0) WHEN THE POLLS
OPENED AND THAT THE ELECTION WAS HELD
IN ACCORDANCE WITH THE LAWS OF THE
STATE OF NORTH CAROLINA.

CHIEF JUDGE

JUDGE

JUDGE

*** Status Report ***
17:26:00 11/08/2016

Durham County, NC
Durham County, NC General Election
0061 OS-ERL
Election Date: November 08, 2016
OS-ERL

Ballot Types:
all

14875
Total: 14875

*** Voting Results Report ***
17:26:02 11/08/2016

Durham County, NC
Durham County, NC General Election
0061 OS-ERL
Election Date: November 08, 2016
Total Number Voting: 14875

Precinct Results Report

OS-ERL

Total Ballots	14875
Ballots for Code 00001-01-01	7959
Ballots for Code 00002-01-01	241
Ballots for Code 00003-01-01	61
Ballots for Code 00004-01-01	114
Ballots for Code 00005-01-01	2955
Ballots for Code 00006-01-01	338
Ballots for Code 00007-01-01	140
Ballots for Code 00008-01-01	2616
Ballots for Code 00009-01-01	64
Ballots for Code 00010-01-01	10
Ballots for Code 00011-01-01	28
Ballots for Code 00012-01-01	289

1001_US PRESIDENT

REP-Donald J. Trump	3724
DEM-Hillary Clinton	10540
LIB-Gary Johnson	352
Write In	197
Over Votes	2
Under Votes	60
Total Votes	14875

1002_US SENATE

REP-Richard Burr	4000
DEM-Deborah K. Ross	10379
LIB-Sean Haugh	358
Over Votes	2
Under Votes	136
Total Votes	14875

1380_US HOUSE OF REPRESENTATIVES D CONGR

REP-H. Powell Uew, Jr.	3614
DEM-G. K. Butterfield	10119
LIB-J. J. Sunnerell	387
Over Votes	0
Under Votes	364
Total Votes	14484

1383_US HOUSE OF REPRESENTATIVES D CONGR

REP-Sue Googe	92
DEM-David Price	289
Over Votes	0
Under Votes	10
Total Votes	391

1016_NC GOVERNOR

REP-Pat McGrory	3909
DEM-Roy Cooper	10667
LIB-Lon Cecil	216
Over Votes	3
Under Votes	80
Total Votes	14875

1395_NC LIEUTENANT GOVERNOR

REP-Dan Forest	3971
DEM-Linda Coleman	10302
LIB-Jacki Cole	349
Over Votes	1
Under Votes	252
Total Votes	14875

1022_NC ATTORNEY GENERAL

REP-Buck Newton	3800
DEM-Josh Stein	10746
Over Votes	1
Under Votes	328
Total Votes	14875

1019_NC AUDITOR

REP-Chuck Stuber	3836
DEM-Beth A. Wood	10518
Over Votes	2
Under Votes	519
Total Votes	14875

1023_NC COMMISSIONER OF AGRICULTUR

REP-Steve Troxler	4571
DEM-Walter Smith	9888
Over Votes	0
Under Votes	416
Total Votes	14875

1025_NC COMMISSIONER OF INSURANCE

REP-Mike Causey	3822
DEM-Wayne Goodwin	10535
Over Votes	0
Under Votes	518
Total Votes	14875

1024_NC COMMISSIONER OF LABOR

REP-Cherie Berry	4446
DEM-Charles Meeker	10009
Write In	13
Over Votes	5
Under Votes	402
Total Votes	14875

Total Votes 14875

1018_NC SECRETARY OF STATE

REP-Michael LaPaglia 3605
DEM-Elaine Marshall 10843
Over Votes 2
Under Votes 425

Total Votes 14875

1021_NC SUPERINTENDENT OF PUBLIC I

REP-Mark Johnson 3791
DEM-June Atkinson 10630
Over Votes 2
Under Votes 452

Total Votes 14875

1020_NC TREASURER

REP-Dale R. Folwell 4023
DEM-Dan Blue III 10373
Over Votes 4
Under Votes 475

Total Votes 14875

1045_NC STATE SENATE DIST 20 NC SENATE D

DEM-Floyd B. McKissick, Jr. 7044
LIB-Barbara Howe 1169
Over Votes 9
Under Votes 463

Total Votes 8685

1047_NC STATE SENATE DIST 22 NC SENATE D

REP-T. Greg Doucette 2521
DEM-Mike Woodard 3366
Over Votes 0
Under Votes 303

Total Votes 6190

1104_NC HOUSE OF REPRESENTATIVES D NC HD

DEM-Larry D. Hall 505
Over Votes 0
Under Votes 46

Total Votes 551

1105_NC HOUSE OF REPRESENTATIVES D NC HD

REP-Elissa Fuchs 1040
DEM-Paul Luebke 2193
Over Votes 1
Under Votes 134

Total Votes 3368

1106_NC HOUSE OF REPRESENTATIVES D NC HD

DEM-H. M. (Mickey) Michaux, Jr. 7097
Over Votes 0
Under Votes 1103

Total Votes 8200

1125_NC HOUSE OF REPRESENTATIVES D NC HD

REP-Rod Chaney 1544
DEM-Graig R. Meyer 1053
Over Votes 0
Under Votes 159

Total Votes 2756

Over Votes	0
Under Votes	159
Total Votes	2756

0001_DURHAM CO BD OF COMMISSIONER
Number to Vote For: 5

DEM-Heidi Carter	9823
DEM-James Hill	9896
DEM-Brenda Howerton	9794
DEM-Wendy Jacobs	9767
DEM-Ellen Reckhow	9781
Write In	189
Over Votes	1480
Under Votes	23545
Total Votes	74375

0002_DURHAM CO REGISTER OF DEEDS

DEM-Sharon A. Davis	11920
Over Votes	0
Under Votes	2955
Total Votes	14875

1393_NC SUPREME COURT ASSOCIATE JU

Michael R. (Mike) Morgan	9284
Robert H. (Bob) Edmunds	3735
Over Votes	3
Under Votes	1853
Total Votes	14875

1198_NC COURT OF APPEALS JUDGE (ST

REP-Phil Berger, Jr.	3754
DEM-Linda Stephens	10602
Over Votes	1
Under Votes	518
Total Votes	14875

1396_NC COURT OF APPEALS JUDGE (GE

REP-Hunter Murphy	3639
DEM-Margaret Eagles	10002
UNA-Donald Ray Buie	655
Over Votes	4
Under Votes	575
Total Votes	14875

1197_NC COURT OF APPEALS JUDGE (HU

REP-Bob Hunter	4100
DEM-Abe Jones	10149
Over Votes	4
Under Votes	622
Total Votes	14875

1199_NC COURT OF APPEALS JUDGE (DI

REP-Richard Dietz	4008
DEM-Vince Rozier	10225
Over Votes	0
Under Votes	642
Total Votes	14875

1373_NC COURT OF APPEALS JUDGE (ZA

REP-Valerie Zachary	4124
DEM-Ricky McKoy-Mitchell	10081
Over Votes	2
Under Votes	668
Total Votes	14875

Total Votes 14875

1283_NC DIST COURT JUDGE DIST 14 (14TH

William A. (Drew) Marsh III	5531
Shanteka LaCher Rhinehart	7502
Over Votes	8
Under Votes	1834
Total Votes	14875

0003_SOIL AND WATER CONSERVATION D

Danielle Adams	10356
Michael Van Sickle	2045
Write In	67
Over Votes	5
Under Votes	2402
Total Votes	14875

0004_SCHOOL BONDS

Yes	11279
No	2948
Over Votes	16
Under Votes	632
Total Votes	14875

0006_LIBRARY FACILITIES BONDS

Yes	10757
No	3445
Over Votes	2
Under Votes	671
Total Votes	14875

0005_COMMUNITY COLLEGE BONDS

Yes	11054
No	3134
Over Votes	4
Under Votes	683
Total Votes	14875

0007_MUSEUM BONDS

Yes	10394
No	3818
Over Votes	0
Under Votes	663
Total Votes	14875

WE, THE UNDERSIGNED, DO HEREBY CERTIFY
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ACCURATE ACCOUNT OF THE ELECTION HELD
NOVEMBER 8, 2016, AND THAT ALL
COUNTERS WERE ZERO (0) WHEN THE POLLS
OPENED AND THAT THE ELECTION WAS HELD
IN ACCORDANCE WITH THE LAWS OF THE
STATE OF NORTH CAROLINA.

CHIEF JUDGE

JUDGE

JUDGE

*** Status Report ***
17:00:10 11/08/2016

Durham County, NC
Durham County, NC General Election
0062 DS-END
Election Date: November 08, 2016
DS-END

Ballot Types:
all

18281
Total: 18281

*** Voting Results Report ***
17:00:12 11/08/2016

Durham County, NC
Durham County, NC General Election
0062 DS-END
Election Date: November 08, 2016
Total Number Voting: 18281

Precinct Results Report

DS-END

Total Ballots	18281
Ballots for Code 00001-01-01	441
Ballots for Code 00002-01-01	172
Ballots for Code 00003-01-01	2931
Ballots for Code 00004-01-01	334
Ballots for Code 00005-01-01	10056
Ballots for Code 00006-01-01	1744
Ballots for Code 00007-01-01	11
Ballots for Code 00008-01-01	143
Ballots for Code 00009-01-01	45
Ballots for Code 00010-01-01	20
Ballots for Code 00011-01-01	198
Ballots for Code 00012-01-01	2186

1001_US PRESIDENT

REP-Donald J. Trump	2870
DEM-Hillary Clinton	14586
LIB-Gary Johnson	440
Write In	279
Over Votes	7
Under Votes	99
Total Votes	18281

1002_US SENATE

REP-Richard Burr	3750
DEM-Deborah K. Ross	14056
LIB-Sean Haugh	324
Over Votes	3
Under Votes	148
Total Votes	18281

1380_US HOUSE OF REPRESENTATIVES D CONGR

REP-H. Powell Dew, Jr.	2943
DEM-G. K. Butterfield	12121

1018_NC SECRETARY OF STATE

REP-Michael LaPaglia	3254
DEM-Elaine Marshall	14461
Over Votes	0
Under Votes	566
Total Votes	18281

1021_NC SUPERINTENDENT OF PUBLIC I

REP-Mark Johnson	3400
DEM-June Atkinson	14261
Over Votes	0
Under Votes	620
Total Votes	18281

1020_NC TREASURER

REP-Dale R. Folwell	3849
DEM-Dan Blue III	13769
Over Votes	2
Under Votes	661
Total Votes	18281

1045_NC STATE SENATE DIST 20 NC SENATE D

DEM-Floyd B. McKissick, Jr.	2096
LIB-Barbara Howe	340
Over Votes	5
Under Votes	154
Total Votes	2595

1047_NC STATE SENATE DIST 22 NC SENATE D

REP-T. Greg Doucette	3276
DEM-Mike Woodard	11779
Over Votes	5
Under Votes	626
Total Votes	15686

1104_NC HOUSE OF REPRESENTATIVES D NC HD

DEM-Larry D. Hall	4286
Over Votes	0
Under Votes	632
Total Votes	4918

1105_NC HOUSE OF REPRESENTATIVES D NC HD

REP-Elissa Fuchs	2652
DEM-Paul Luebke	9381
Over Votes	1
Under Votes	562
Total Votes	12596

1106_NC HOUSE OF REPRESENTATIVES D NC HD

DEM-H. H. (Mickey) Michaux, Jr.	558
Over Votes	0
Under Votes	55
Total Votes	613

1125_NC HOUSE OF REPRESENTATIVES D NC HD

REP-Rod Chaney	44
DEM-Graig R. Meyer	103
Over Votes	0
Under Votes	7
Total Votes	154

Total Votes

154

0001_DURHAM CO BD OF COMMISSIONER
Number to Vote For: 5

DEM-Heidi Carter	14392
DEM-James Hill	13921
DEM-Brenda Howerton	13896
DEM-Wendy Jacobs	14214
DEM-Ellen Reckhow	14376
Write In	191
Over Votes	1135
Under Votes	19280

Total Votes	91405
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0002_DURHAM CO REGISTER OF DEEDS

DEM-Sharon A. Davis	15245
Over Votes	0
Under Votes	3036

Total Votes	18281
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1393_NC SUPREME COURT ASSOCIATE JU

Michael R. (Mike) Morgan	11975
Robert H. (Bob) Edmunds	4250
Over Votes	12
Under Votes	2044

Total Votes	18281
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1198_NC COURT OF APPEALS JUDGE (ST

REP-Phil Berger, Jr.	3417
DEM-Linda Stephens	14169
Over Votes	1
Under Votes	694

Total Votes	18281
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1396_NC COURT OF APPEALS JUDGE (GE

REP-Hunter Murphy	3255
DEM-Margaret Eagles	13586
UNA-Donald Ray Bute	665
Over Votes	4
Under Votes	771

Total Votes	18281
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1197_NC COURT OF APPEALS JUDGE (HU

REP-Bob Hunter	4116
DEM-Abe Jones	13327
Over Votes	3
Under Votes	835

Total Votes	18281
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1199_NC COURT OF APPEALS JUDGE (DI

REP-Richard Dietz	3878
DEM-Vince Rozier	13531
Over Votes	1
Under Votes	871

Total Votes	18281
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1373_NC COURT OF APPEALS JUDGE (ZA

REP-Valerie Zachary	4036
DEM-Ricky McRoy-Mitchell	13317
Over Votes	1
Under Votes	927

Total Votes	18281
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1283_NC DIST COURT JUDGE DIST 14 (14TH

Total Votes 18281

1283_NC DIST COURT JUDGE DIST 14 (14TH

William A. (Drew) Marsh III 5236
Shanteka LaCher Rhinehart 10834
Over Votes 4
Under Votes 2207

Total Votes 18281

0003_SOIL AND WATER CONSERVATION D

Dontelle Adams 12834
Michael Van Sickle 2161
Write In 73
Over Votes 1
Under Votes 3212

Total Votes 18281

0004_SCHOOL BONDS

Yes 15517
No 2098
Over Votes 8
Under Votes 658

Total Votes 18281

0006_LIBRARY FACILITIES BONDS

Yes 14656
No 2873
Over Votes 4
Under Votes 748

Total Votes 18281

0005_COMMUNITY COLLEGE BONDS

Yes 15141
No 2410
Over Votes 4
Under Votes 726

Total Votes 18281

0007_MUSEUM BONDS

Yes 14297
No 3204
Over Votes 5
Under Votes 775

Total Votes 18281

WE, THE UNDERSIGNED, DO HEREBY CERTIFY
THAT THE ABOVE RESULTS ARE A TRUE AND
ACCURATE ACCOUNT OF THE ELECTION HELD
NOVEMBER 8, 2016, AND THAT ALL
COUNTERS WERE ZERO (0) WHEN THE POLLS
OPENED AND THAT THE ELECTION WAS HELD
IN ACCORDANCE WITH THE LAWS OF THE
STATE OF NORTH CAROLINA.

CHIEF JUDGE

JUDGE

JUDGE

Durham County, NC
Durham County, NC General Election
0060 OS-SRL
Election Date: November 08, 2016
OS-SRL

Ballot Types:
all

21973
Total: 21973

*** Voting Results Report ***
16:54:02 11/08/2016

Durham County, NC
Durham County, NC General Election
0060 OS-SRL
Election Date: November 08, 2016
Total Number Voting: 21973

Precinct Results Report

OS-SRL

Total Ballots	21973
Ballots for Code 00001-01-01	1948
Ballots for Code 00002-01-01	225
Ballots for Code 00003-01-01	2731
Ballots for Code 00004-01-01	44
Ballots for Code 00005-01-01	1776
Ballots for Code 00006-01-01	6185
Ballots for Code 00007-01-01	13
Ballots for Code 00008-01-01	269
Ballots for Code 00009-01-01	934
Ballots for Code 00010-01-01	715
Ballots for Code 00011-01-01	758
Ballots for Code 00012-01-01	6375

1001_US PRESIDENT

REP-Donald J. Trump	2783
DEM-Hillary Clinton	18323
LIB-Gary Johnson	507
Write In	292
Over Votes	2
Under Votes	66
Total Votes	21973

1002_US SENATE

REP-Richard Burr	3459
DEM-Deborah K. Ross	17905
LIB-Sean Haugh	452
Over Votes	3
Under Votes	154
Total Votes	21973

1380_US HOUSE OF REPRESENTATIVES D CONGR

REP-H. Powell Dew, Jr.	1465
DEM-G. K. Butterfield	11163
LIB-J.J. Summrell	330
Over Votes	0
Under Votes	233
Total Votes	13191

1383_US HOUSE OF REPRESENTATIVES D CONGR

REP-Sue Googe	1733
DEM-David Price	6867
Over Votes	0
Under Votes	182
Total Votes	8782

Under Votes	182
Total Votes	8782

1016_NC GOVERNOR

REP-Pat McGrory	3078
DEM-Roy Cooper	18471
LIB-Lon Cecil	320
Over Votes	1
Under Votes	103
Total Votes	21973

1395_NC LIEUTENANT GOVERNOR

REP-Dan Forest	3386
DEM-Linda Coleman	17728
LIB-Jacki Cole	505
Over Votes	1
Under Votes	353
Total Votes	21973

1022_NC ATTORNEY GENERAL

REP-Buck Newton	3076
DEM-Josh Stein	18433
Over Votes	1
Under Votes	463
Total Votes	21973

1019_NC AUDITOR

REP-Chuck Stuber	3696
DEM-Beth A. Wood	17571
Over Votes	2
Under Votes	704
Total Votes	21973

1023_NC COMMISSIONER OF AGRICULTUR

REP-Steve Troxler	4421
DEM-Walter Smith	16922
Over Votes	0
Under Votes	630
Total Votes	21973

1025_NC COMMISSIONER OF INSURANCE

REP-Mike Causey	3211
DEM-Wayne Goodwin	18018
Over Votes	2
Under Votes	742
Total Votes	21973

1024_NC COMMISSIONER OF LABOR

REP-Cherie Berry	4275
DEM-Charles Meeker	17093
Write In	22
Over Votes	5
Under Votes	578
Total Votes	21973

1018_NC SECRETARY OF STATE

REP-Michael LaPaglia	2975
DEM-Elaine Marshall	18437
Over Votes	0
Under Votes	561
Total Votes	21973

1021_NC SUPERINTENDENT OF PUBLIC I

REP-Mark Johnson	2222
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1018_NC SECRETARY OF STATE

REP-Michael LaPaglia	2975
DEM-Elaine Marshall	18437
Over Votes	0
Under Votes	561

Total Votes	21973
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1021_NC SUPERINTENDENT OF PUBLIC I

REP-Mark Johnson	3283
DEM-June Atkinson	18048
Over Votes	0
Under Votes	642

Total Votes	21973
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1020_NC TREASURER

REP-Dale R. Folwell	3555
DEM-Dan Blue III	17737
Over Votes	1
Under Votes	680

Total Votes	21973
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1045_NC STATE SENATE DIST 20 NC SENATE D

DEM-Floyd B. McKissick, Jr.	8295
LIB-Barbara Howe	1159
Over Votes	8
Under Votes	377

Total Votes	9839
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1047_NC STATE SENATE DIST 22 NC SENATE D

REP-T. Greg Doucette	2493
DEM-Mike Woodard	9187
Over Votes	0
Under Votes	454

Total Votes	12134
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1104_NC HOUSE OF REPRESENTATIVES D NC HD

DEM-Larry D. Hall	9480
Over Votes	0
Under Votes	1128

Total Votes	10608
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1105_NC HOUSE OF REPRESENTATIVES D NC HD

REP-Elissa Fuchs	1778
DEM-Paul Luebke	6772
Over Votes	0
Under Votes	360

Total Votes	8910
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1106_NC HOUSE OF REPRESENTATIVES D NC HD

DEM-H.M. (Mickey) Michaux, Jr.	1977
Over Votes	0
Under Votes	196

Total Votes	2173
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1125_NC HOUSE OF REPRESENTATIVES D NC HD

REP-Rod Chaney	89
DEM-Graig R. Meyer	185
Over Votes	0
Under Votes	8

Total Votes	282
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Total Votes 282

0001.DURHAM CO BD OF COMMISSIONER
Number to Vote For: 5

DEM-Heidi Carter	16659
DEM-James Hill	16382
DEM-Brenda Howerton	16433
DEM-Wendy Jacobs	16482
DEM-Ellen Reckhow	16413
Write In	268
Over Votes	1760
Under Votes	25408

Total Votes 109865

0002.DURHAM CO REGISTER OF DEEDS

DEM-Sharon A. Davis	18935
Over Votes	0
Under Votes	3038

Total Votes 21973

1393.NC SUPREME COURT ASSOCIATE JU

Michael R. (Mike) Morgan	15035
Robert H. (Bob) Edmunds	4432
Over Votes	9
Under Votes	2497

Total Votes 21973

1198.NC COURT OF APPEALS JUDGE (ST

REP-Phil Berger, Jr.	3150
DEM-Linda Stephens	18108
Over Votes	2
Under Votes	713

Total Votes 21973

1396.NC COURT OF APPEALS JUDGE (GE

REP-Hunter Murphy	2893
DEM-Margaret Eagles	17291
UNA-Donald Ray Buie	964
Over Votes	1
Under Votes	824

Total Votes 21973

1197.NC COURT OF APPEALS JUDGE (HU

REP-Bob Hunter	3681
DEM-Abe Jones	17414
Over Votes	1
Under Votes	877

Total Votes 21973

1199.NC COURT OF APPEALS JUDGE (DI

REP-Richard Dietz	3605
DEM-Vince Rozier	17456
Over Votes	2
Under Votes	910

Total Votes 21973

1373.NC COURT OF APPEALS JUDGE (ZA

REP-Valerie Zachary	3732
DEM-Ricky McRoy-Mitchell	17293
Over Votes	3
Under Votes	945

Total Votes 21973

1283.NC DIST COURT JUDGE DIST 14 (14TH

Under Votes 945

Total Votes 21973

1283_NC DIST COURT JUDGE DIST 14 (14TH

William A. (Drew) Marsh III 7139

Shanteka LaCher Rhinehart 12630

Over Votes 17

Under Votes 2187

Total Votes 21973

0003_SOIL AND WATER CONSERVATION D

Dantelle Adams 16340

Michael Van Sickle 2513

Write In 75

Over Votes 0

Under Votes 3045

Total Votes 21973

0004_SCHOOL BONDS

Yes 18518

No 2731

Over Votes 8

Under Votes 716

Total Votes 21973

0006_LIBRARY FACILITIES BONDS

Yes 17708

No 3495

Over Votes 4

Under Votes 766

Total Votes 21973

0005_COMMUNITY COLLEGE BONDS

Yes 18155

No 3057

Over Votes 10

Under Votes 751

Total Votes 21973

0007_MUSEUM BONDS

Yes 17062

No 4118

Over Votes 1

Under Votes 792

Total Votes 21973

WE, THE UNDERSIGNED, DO HEREBY CERTIFY
THAT THE ABOVE RESULTS ARE A TRUE AND
ACCURATE ACCOUNT OF THE ELECTION HELD
NOVEMBER 8, 2016, AND THAT ALL
COUNTERS WERE ZERO (0) WHEN THE POLLS
OPENED AND THAT THE ELECTION WAS HELD
IN ACCORDANCE WITH THE LAWS OF THE
STATE OF NORTH CAROLINA

CHIEF JUDGE

JUDGE

JUDGE

*** Status Report ***
20:19:26 11/08/2016

Durham County, NC
Durham County, NC General Elec
0028 29_29_29
Election Date: November 08, 2016
29_29_29

Ballot Types:
all

759
Total: 759

*** Voting Results Report ***
20:19:28 11/08/2016

Durham County, NC
Durham County, NC General Elec
0028 29_29_29
Election Date: November 08, 2016
Total Number Voting: 759

Precinct Results Report

29_29_29

Total Ballots	759
Ballots for Code 00001-01-01	520
Ballots for Code 00002-01-01	4
Ballots for Code 00007-01-01	128
Ballots for Code 00008-01-01	107

1001_US PRESIDENT

REP-Donald J. Trump	306
DEM-Hillary Clinton	411
LIB-Gary Johnson	21
Write In	16
Over Votes	1
Under Votes	4
Total Votes	759

1002_US SENATE

REP-Richard Burr	307
DEM-Deborah K. Ross	421
LIB-Sean Haugh	22
Over Votes	2
Under Votes	7
Total Votes	759

1380_US HOUSE OF REPRESENTATIVES D CONGR

REP-H. Powell Dew, Jr.	282
DEM-G. K. Butterfield	418
LIB-J. J. Summerell	28
Over Votes	2
Under Votes	29

Total Votes 759

1380.US HOUSE OF REPRESENTATIVES D CONGR

REP-H. Powell Dew, Jr. 282
DEM-G. K. Butterfield 418
LIB-J. J. Summerell 28
Over Votes 2
Under Votes 29

Total Votes 759

1016.NC GOVERNOR

REP-Pat McGrory 311
DEM-Roy Cooper 427
LIB-Lon Cecil 18
Over Votes 1
Under Votes 2

Total Votes 759

1395.NC LIEUTENANT GOVERNOR

REP-Den Forest 312
DEM-Linda Coleman 407
LIB-Jacki Cole 22
Over Votes 2
Under Votes 16

Total Votes 759

1022.NC ATTORNEY GENERAL

REP-Buck Newton 303
DEM-Josh Stein 436
Over Votes 1
Under Votes 19

Total Votes 759

1019.NC AUDITOR

REP-Chuck Stuber 298
DEM-Beth A. Wood 432
Over Votes 1
Under Votes 28

Total Votes 759

1023.NC COMMISSIONER OF AGRICULTUR

REP-Steve Troxler 323
DEM-Walter Smith 413
Over Votes 1
Under Votes 22

Total Votes 759

1025.NC COMMISSIONER OF INSURANCE

REP-Mike Causey 285
DEM-Wayne Goodwin 440
Over Votes 1
Under Votes 33

Total Votes 759

1024.NC COMMISSIONER OF LABOR

REP-Cherie Berry 326
DEM-Charles Hecker 404
Write In 1
Over Votes 1
Under Votes 27

Total Votes 759

1018.NC SECRETARY OF STATE

REP-Michael LaPaglia 279
DEM 480

Over Votes	27
Under Votes	
Total Votes	759

1018_NC SECRETARY OF STATE

REP-Michael LaPaglia	279
DEM-Elaine Marshall	450
Over Votes	1
Under Votes	29
Total Votes	759

1021_NC SUPERINTENDENT OF PUBLIC I

REP-Mark Johnson	292
DEM-June Atkinson	436
Over Votes	1
Under Votes	30
Total Votes	759

1020_NC TREASURER

REP-Dale R. Folwell	308
DEM-Dan Blue III	422
Over Votes	1
Under Votes	28
Total Votes	759

1045_NC STATE SENATE DIST 20 NC SENATE D

DEM-Floyd B. McKissick, Jr.	416
LTD-Barbara Howe	165
Over Votes	1
Under Votes	66
Total Votes	648

1047_NC STATE SENATE DIST 22 NC SENATE D

REP-T. Greg Doucette	74
DEM-Mike Woodard	33
Over Votes	0
Under Votes	4
Total Votes	111

1106_NC HOUSE OF REPRESENTATIVES D NC HD

DEM-H.M. (Mickey) Michaux, Jr.	413
Over Votes	0
Under Votes	111
Total Votes	524

1125_NC HOUSE OF REPRESENTATIVES D NC HD

REP-Rod Chaney	164
DEM-Graig R. Meyer	58
Over Votes	0
Under Votes	13
Total Votes	235

0001_DURHAM CO BO OF COMMISSIONER Number to Vote For: 5

DEM-Heidi Carter	397
DEM-James Hill	393
DEM-Brenda Howerton	373
DEM-Wendy Jacobs	376
DEM-Ellen Reckhow	377
Write In	16
Over Votes	145
Under Votes	1718
Total Votes	3795

0002_DURHAM CO REGISTER OF DEEDS

0001.DURHAM CO BD OF COMMISSIONER
Number to Vote For: 5

DEM-Heidi Carter	397
DEM-James Hill	393
DEM-Brenda Howerton	373
DEM-Wendy Jacobs	376
DEM-Ellen Reckhow	377
Write In	16
Over Votes	145
Under Votes	1718
Total Votes	3795

0002.DURHAM CO REGISTER OF DEEDS

DEM-Sharon A. Davis	556
Over Votes	0
Under Votes	203
Total Votes	759

1393.NC SUPREME COURT ASSOCIATE JU

Michael R. (Mike) Morgan	404
Robert H. (Bob) Edmunds	246
Over Votes	0
Under Votes	109
Total Votes	759

1198.NC COURT OF APPEALS JUDGE (ST

REP-Phil Berger, Jr.	288
DEM-Linda Stephens	433
Over Votes	0
Under Votes	38
Total Votes	759

1396.NC COURT OF APPEALS JUDGE (GE

REP-Hunter Murphy	272
DEM-Margaret Eagles	394
UNA-Donald Ray Buie	47
Over Votes	0
Under Votes	46
Total Votes	759

1197.NC COURT OF APPEALS JUDGE (HU

REP-Bob Hunter	308
DEM-Abe Jones	402
Over Votes	0
Under Votes	49
Total Votes	759

1199.NC COURT OF APPEALS JUDGE (DI

REP-Richard Dietz	301
DEM-Vince Rozier	409
Over Votes	0
Under Votes	49
Total Votes	759

1373.NC COURT OF APPEALS JUDGE (ZA

REP-Valerie Zachary	311
DEM-Rickye McKoy-Mitchell	395
Over Votes	0
Under Votes	53
Total Votes	759

1283.NC DIST COURT JUDGE DIST 14 (14TH

Under Votes	59
Total Votes	759

1283_NC DIST COURT JUDGE DIST 14 (14TH

William A. (Drew) Marsh III	379
Shanteka LaCher Rhinehart	277
Over Votes	1
Under Votes	102
Total Votes	759

0003_SOIL AND WATER CONSERVATION D

Danielle Adams	450
Michael Van Sickle	155
Write In	6
Over Votes	3
Under Votes	145
Total Votes	759

0004_SCHOOL BONDS

Yes	478
No	222
Over Votes	0
Under Votes	59
Total Votes	759

0006_LIBRARY FACILITIES BONDS

Yes	444
No	257
Over Votes	0
Under Votes	58
Total Votes	759

0005_COMMUNITY COLLEGE BONDS

Yes	479
No	222
Over Votes	0
Under Votes	58
Total Votes	759

0007_FUN BONDS

Yes	453
No	243
Over Votes	1
Under Votes	62
Total Votes	759

WE THE UNDERSIGNED, DO HEREBY CERTIFY THAT THE ABOVE RESULTS ARE A TRUE AND ACCURATE ACCOUNT OF THE ELECTION HELD ON NOVEMBER 3, 2016, AND THAT THE RESULTS WERE ZERO (0) WHEN THE POLLS CLOSED AND THAT THE ELECTION WAS HELD IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH CAROLINA.

Greg Reynolds
CHIEF JUDGE

Robert L. Ligon
JUDGE

Kurt M. Leary
JUDGE

CERTIFICATION OF RECORDS

The undersigned is a custodian of records of Durham County Board of Elections and does hereby certify that the attached are scanned copies of the records of Durham County Board of Elections results tapes from five One Stop voting sites and one Election Day precinct: OS-BOE, OS-NRL, OS-SRL, OS-ERL, OS-ERU, Precinct 29. The said records were kept and maintained in the ordinary course of business, and are an accurate, legible, and complete duplicate of the aforementioned records.

Dated at Durham, NC, this the 18th day of November, 2016.

Kate Cosner
Custodian of Records

Sworn to and subscribed before me on the 18 day of November, 2016.



Joseph L. Halby
NOTARY PUBLIC

My Commission Expires: 06/03/2017

Affidavit of Brian D. Neesby .

STATE OF NORTH CAROLINA

COUNTY OF DURHAM

BEFORE THE DURHAM COUNTY BOARD OF ELECTIONS

IN THE MATTER OF: PROTEST OF)
2016 GENERAL ELECTION)
BROUGHT BY THOMAS STARK)
)

**AFFIDAVIT OF
BRIAN D. NEESBY**

Brian D. Neesby, after being duly sworn, says:

1. I am over 21 years of age, legally competent to give this declaration, and have personal knowledge of the facts set forth in it.

2. I serve as a Business Systems Analyst at the North Carolina State Board of Elections (“SBE”), and have served in that capacity since October 2014. Prior to 2014, I worked as a business systems consultant for the corporate offices of Toyota USA.

3. I have access to business records relating to voter registration that are stored within the Statewide Election Information Management System (“SEIMS”), a suite of databases and applications maintained by and in the custody of the State Board. I also have access to digital records produced by tabulation machines and fed into the Unity Voting System (“Unity”) developed by Election Systems & Software, LLC (“ES&S”).

4. I am familiar with the SEIMS and Unity systems and the manner by which the records in those systems are generated in the regular course of business at or near the time of the events recorded and based upon the personal knowledge of the election official making the record.

5. In the course of performing my day-to-day duties as Business Systems Analyst, I regularly review voter registration records maintained in the SEIMS system and query the data to determine the origin of registration activity, to analyze demographic and geographic information

of groups of voters, and to review the voting history of an individual or subset of the voting population. I also review Unity data as part of a systematic audit following an election and am familiar with the technical processes involved in tabulation and the manner in which results are stored within the Unity software.

6. I report to SBE Executive Director Kimberly Westbrook Strach and am regularly assigned tasks that include queries and data review as part of comprehensive audits and investigations affecting elections. I was involved in the investigation of the Durham County Board of Elections (“Durham CBE”) following the primary election held March 15, including a detailed review of Unity and SEIMS data.

7. Executive Director Strach instructed me to review data generated during the tabulation of ballots cast at the following one-stop early voting locations in Durham County during the 2016 general election: Durham County Board of Elections Office, North Regional Library, South Regional Library, East Regional Library, and ENO River Unitarian Universalist Fellowship.

8. On or about November 11, 2016, Durham CBE Interim-Director Kate Cosner provided a digital file reflecting audit logs of user inputs into Unity on Tuesday, November 8. She also provided a folder from Unity that contained the binary file to which the PCMCIA card reads. This file is called the “.spp file”.

9. Between Saturday, November 12 and Sunday, November 13, I reviewed the Unity logs and election results contained within SEIMS. My primary purpose was to identify possible causes for a Unity error that occurred when Durham CBE staff attempted to load tabulation data stored on five Personal Computer Memory Card International Association (PCMCIA) cards. Following my ordinary practice of auditing manual entries, I decoded the .spp file and compared the results to the manual entries that were input into Unity.

Unity Error

10. Unity software aggregates results that are read from PCMCIA cards or manually

entered by elections officials based on tally sheets or paper tapes printed by machine tabulators.

11. Durham County held elections for thirty-three (33) contests in the 2016 general election, including one contest for five (5) members of the Durham County Board of Commissioners. The Board of Commissioners contest allowed every voter to make up to five (5) selections in the single contest.

12. I have reviewed Unity logs that record attempts to load results from the five PCMCIA cards into the Unity tabulation system on the evening of November 8. The Unity logs indicate that an error occurred and that results from the PCMCIA cards were not successfully read into the Unity machine and aggregated with other county-level results.

13. Based on my review of the Unity logs, it is my opinion that there exists a memory limitation within the Unity software—not the PCMCIA cards—such that no single card can successfully record results to the .spp file when any single contest contains more than 65,535 votes due to the fact that results are read onto only two bytes of memory¹. Results for the Board of Commissioners contest exceeded this limitation.

14. The Unity logs reflect that data from the PCMCIA card was in fact recorded within Unity, but could not be added to other results within the county. On Monday, November 14, I discussed my findings with staff from ES&S. Upon information and belief, ES&S has independently verified that the Unity error arose from a limitation that did not permit so many votes to be input in a single contest from each PCMCIA card.

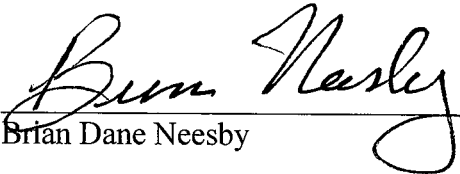
Paper Tapes

15. I have not inspected the paper tapes printed from tabulation machines and used by the Durham CBE to input results into Unity after the system rejected the PCMCIA cards. In my review of the Unity logs, however, I was able to determine that the results data that would have

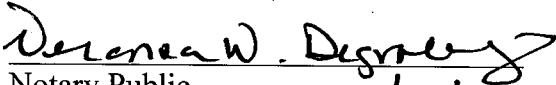
¹ Two bytes of memory can represent a number between 0 and 65,535 (or $2^{16}-1$)

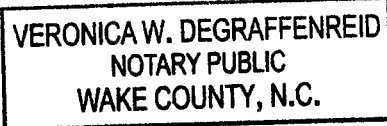
printed to the tapes was in fact recorded in Unity, though the memory limitation described above did not allow the results to be aggregated with results from the other PCMCIA cards.

16. I have reviewed the results within the Unity logs that appear to be the tabulated results, which would mirror the paper tapes printed from each tabulation machine. I have added those results together and compared them to the results manually entered within Unity by the Durham CBE staff, the results from which are attached hereto as **Exhibit 1**.


Brian Dane Neesby

Sworn to and subscribed before me this
15th day of November, 2016.


Notary Public
My Commission Expires: 1/13/2019



Contest and Candidate Information		SPP File out of Unity					Manual Entries				
Contest	Candidate	One-Stop Sites					One-Stop Sites				
		0058	0059	0060	0061	0062	0058	0059	0060	0061	0062
0001 DURHAM CO BD OF COMMISSIONER	Brenda Howerton	14707	11844	16493	9794	13896	14707	11844	16493	9794	13896
0001 DURHAM CO BD OF COMMISSIONER	Ellen Reckhow	14539	12680	16413	9781	14376	14539	12680	16413	9781	14376
0001 DURHAM CO BD OF COMMISSIONER	Heidi Carter	14743	12385	16659	9923	14392	14743	12385	16659	9923	14392
0001 DURHAM CO BD OF COMMISSIONER	James Hill	14585	12346	16382	9896	13921	14585	12346	16382	9897	13921
0001 DURHAM CO BD OF COMMISSIONER	OVER VOTE	2270	1560	1760	1480	1135	2270	1560	1760	1480	1135
0001 DURHAM CO BD OF COMMISSIONER	UNDER VOTE	18755	33585	25408	23545	19280	18755	33585	25408	23545	19280
0001 DURHAM CO BD OF COMMISSIONER	Wendy Jacobs	14778	12085	16482	9767	14214	14778	12085	16482	9767	14214
0001 DURHAM CO BD OF COMMISSIONER	WRITE-IN	213	280	268	189	191	213	280	268	189	191
0001 DURHAM CO BD OF COMMISSIONER	TOTAL	29054	31229	44329	8839	25869	94590	96765	109865	74376	91405
0002 DURHAM CO REGISTER OF DEEDS	OVER VOTE	0	0	0	0	0	0	0	0	0	0
0002 DURHAM CO REGISTER OF DEEDS	Sharon A. Davis	17088	14698	18935	11920	15245	17088	14698	18935	11920	15245
0002 DURHAM CO REGISTER OF DEEDS	UNDER VOTE	1830	4655	3038	2955	3036	1830	4655	3038	2955	3036
0002 DURHAM CO REGISTER OF DEEDS	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
0003 SOIL AND WATER CONSERVATION D	Danielle Adams	14949	12380	16340	10356	12834	14949	12380	16340	10356	12834
0003 SOIL AND WATER CONSERVATION D	Michael Van Sickle	1648	3134	2513	2045	2161	1648	3134	2513	2045	2161
0003 SOIL AND WATER CONSERVATION D	OVER VOTE	9	5	0	5	1	9	5	0	5	1
0003 SOIL AND WATER CONSERVATION D	UNDER VOTE	2247	3712	3045	2402	3212	2247	3712	3045	2402	3212
0003 SOIL AND WATER CONSERVATION D	WRITE-IN	65	122	75	67	73	65	122	75	67	73
0003 SOIL AND WATER CONSERVATION D	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
0004 SCHOOL BONDS	No	1370	4092	2731	2948	2098	1370	4092	2731	2948	2098
0004 SCHOOL BONDS	OVER VOTE	16	11	8	16	8	16	11	8	16	8
0004 SCHOOL BONDS	UNDER VOTE	780	793	716	632	658	780	793	716	632	658
0004 SCHOOL BONDS	Yes	16752	14457	18518	11279	15517	16752	14457	18518	11279	15517
0004 SCHOOL BONDS	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
0005 COMMUNITY COLLEGE BONDS	No	1381	4306	3057	3134	2410	1381	4306	3057	3134	2410
0005 COMMUNITY COLLEGE BONDS	OVER VOTE	7	4	10	4	4	7	4	10	4	4
0005 COMMUNITY COLLEGE BONDS	UNDER VOTE	776	885	751	683	726	776	885	751	683	726
0005 COMMUNITY COLLEGE BONDS	Yes	16754	14158	18155	11054	15141	16754	14158	18155	11054	15141
0005 COMMUNITY COLLEGE BONDS	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
0006 LIBRARY FACILITIES BONDS	No	1766	4944	3495	3445	2873	1766	4944	3495	3445	2873
0006 LIBRARY FACILITIES BONDS	OVER VOTE	11	4	4	2	4	11	4	4	2	4
0006 LIBRARY FACILITIES BONDS	UNDER VOTE	793	906	766	671	748	793	906	766	671	748
0006 LIBRARY FACILITIES BONDS	Yes	16348	13499	17708	10757	14656	16348	13499	17708	10757	14656
0006 LIBRARY FACILITIES BONDS	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
0007 MUSEUM BONDS	No	2150	5089	4118	3818	3204	2150	5089	4118	3813	3204
0007 MUSEUM BONDS	OVER VOTE	5	2	1	0	5	5	2	1	0	5
0007 MUSEUM BONDS	UNDER VOTE	795	889	792	663	775	795	889	792	663	775
0007 MUSEUM BONDS	Yes	15968	13373	17062	10394	14297	15968	13373	17062	10394	14297
0007 MUSEUM BONDS	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14870	18281
1001 US PRESIDENT	Donald J. Trump	1006	6442	2783	3724	2870	1006	6442	2783	3724	2870
1001 US PRESIDENT	Gary Johnson	241	424	507	352	440	241	424	507	352	440
1001 US PRESIDENT	Hillary Clinton	17420	12090	18323	10540	14586	17420	12090	18323	10540	14586
1001 US PRESIDENT	OVER VOTE	1	10	2	2	7	1	10	2	2	7
1001 US PRESIDENT	UNDER VOTE	68	125	66	60	99	68	125	66	60	99
1001 US PRESIDENT	WRITE-IN	182	262	292	197	279	182	262	292	197	279
1001 US PRESIDENT	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
1002 US SENATE	Deborah K. Ross	17165	11800	17905	10379	14056	17165	11800	17905	10379	14056
1002 US SENATE	OVER VOTE	7	3	3	2	3	7	3	3	2	3
1002 US SENATE	Richard Burr	1277	6916	3459	4000	3750	1277	6916	3459	4000	3750
1002 US SENATE	Sean Haugh	274	451	452	358	324	274	451	452	358	324
1002 US SENATE	UNDER VOTE	195	183	154	136	148	195	183	154	136	148
1002 US SENATE	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
1016 NC GOVERNOR	Lon Cecil	192	276	320	216	240	192	276	320	216	240
1016 NC GOVERNOR	OVER VOTE	5	4	1	3	4	5	4	1	3	4
1016 NC GOVERNOR	Pat McCrory	1166	6613	3078	3909	3185	1166	6613	3078	3909	3185
1016 NC GOVERNOR	Roy Cooper	17379	12341	18471	10667	14752	17379	12341	18471	10667	14752
1016 NC GOVERNOR	UNDER VOTE	176	119	103	80	100	176	119	103	80	100
1016 NC GOVERNOR	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
1018 NC SECRETARY OF STATE	Elaine Marshall	17286	12677	18437	10843	14461	17286	12677	18437	10843	14461
1018 NC SECRETARY OF STATE	Michael LaPaglia	1112	6042	2975	3605	3254	1112	6042	2975	3605	3254
1018 NC SECRETARY OF STATE	OVER VOTE	6	2	0	2	0	6	2	0	2	0
1018 NC SECRETARY OF STATE	UNDER VOTE	514	632	561	425	566	514	632	561	425	566
1018 NC SECRETARY OF STATE	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
1019 NC AUDITOR	Beth A. Wood	16646	12067	17571	10518	13550	16646	12067	17571	10518	13550
1019 NC AUDITOR	Chuck Stuber	1635	6523	3696	3836	4018	1635	6523	3696	3836	4018
1019 NC AUDITOR	OVER VOTE	6	1	2	2	3	6	1	2	2	3
1019 NC AUDITOR	UNDER VOTE	631	762	704	519	710	631	762	704	519	710
1019 NC AUDITOR	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
1020 NC TREASURER	Dale R. Folwell	1396	6777	3555	4023	3849	1396	6777	3555	4023	3849
1020 NC TREASURER	Dan Blue III	16935	11866	17737	10373	13769	16935	11866	17737	10373	13769
1020 NC TREASURER	OVER VOTE	3	2	1	4	2	3	2	1	4	2
1020 NC TREASURER	UNDER VOTE	584	708	680	475	661	584	708	680	475	661
1020 NC TREASURER	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
1021 NC SUPERINTENDENT OF PUBLIC I	June Atkinson	17104	12408	18048	10630	14261	17104	12408	18048	10630	14261
1021 NC SUPERINTENDENT OF PUBLIC I	Mark Johnson	1219	6278	3283	3791	3400	1219	6278	3283	3793	3400
1021 NC SUPERINTENDENT OF PUBLIC I	OVER VOTE	5	0	0	2	0	5	0	0	2	0
1021 NC SUPERINTENDENT OF PUBLIC I	UNDER VOTE	590	667	642	452	620	590	667	642	452	620
1021 NC SUPERINTENDENT OF PUBLIC I	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14877	18281
1022 NC ATTORNEY GENERAL	Buck Newton	1158	6445	3076	3800	3340	1158	6445	3076	3800	3340

Contest and Candidate Information		SPP File out of Unity					Manual Entries				
Contest	Candidate	One-Stop Sites					One-Stop Sites				
		0058	0059	0060	0061	0062	0058	0059	0060	0061	0062
1022 NC ATTORNEY GENERAL	Josh Stein	17321	12414	18433	10746	14485	17321	12414	18433	10746	14485
1022 NC ATTORNEY GENERAL	OVER VOTE	5	1	1	1	1	5	1	1	1	1
1022 NC ATTORNEY GENERAL	UNDER VOTE	434	493	463	328	455	434	493	463	328	455
1022 NC ATTORNEY GENERAL	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
1023 NC COMMISSIONER OF AGRICULTUR	OVER VOTE	2	0	0	0	3	2	0	0	0	3
1023 NC COMMISSIONER OF AGRICULTUR	Steve Troxler	1754	7847	4421	4571	4652	1754	7847	4421	4571	4652
1023 NC COMMISSIONER OF AGRICULTUR	UNDER VOTE	596	585	630	416	650	596	585	630	416	650
1023 NC COMMISSIONER OF AGRICULTUR	Walter Smith	16566	10921	16922	9888	12976	16566	10921	16922	9888	12976
1023 NC COMMISSIONER OF AGRICULTUR	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
1024 NC COMMISSIONER OF LABOR	Charles Meeker	16602	11430	17093	10009	13281	16602	11430	17093	10009	13281
1024 NC COMMISSIONER OF LABOR	Cherie Berry	1730	7284	4275	4446	4411	1730	7284	4275	4446	4411
1024 NC COMMISSIONER OF LABOR	OVER VOTE	7	6	5	5	2	7	6	5	5	2
1024 NC COMMISSIONER OF LABOR	UNDER VOTE	559	618	578	402	576	559	618	578	402	576
1024 NC COMMISSIONER OF LABOR	WRITE-IN	20	15	22	13	11	20	15	22	13	11
1024 NC COMMISSIONER OF LABOR	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
1025 NC COMMISSIONER OF INSURANCE	Mike Causey	1242	6329	3211	3822	3507	1242	6329	3211	3822	3507
1025 NC COMMISSIONER OF INSURANCE	OVER VOTE	2	1	2	0	1	2	1	2	0	1
1025 NC COMMISSIONER OF INSURANCE	UNDER VOTE	673	758	742	518	761	673	758	742	518	761
1025 NC COMMISSIONER OF INSURANCE	Wayne Goodwin	17001	12265	18018	10535	14012	17001	12265	18018	10535	14012
1025 NC COMMISSIONER OF INSURANCE	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
1045 NC STATE SENATE DIST 20 NC SENATE DISTRICT 20	Barbara Howe	810	886	1159	1169	340	810	886	1159	1169	340
1045 NC STATE SENATE DIST 20 NC SENATE DISTRICT 20	Floyd B. McKissick, Jr.	9862	4825	8295	7044	2096	9862	4825	8295	7044	2096
1045 NC STATE SENATE DIST 20 NC SENATE DISTRICT 20	OVER VOTE	16	6	8	9	5	16	6	8	9	5
1045 NC STATE SENATE DIST 20 NC SENATE DISTRICT 20	UNDER VOTE	369	395	377	463	154	369	395	377	463	154
1045 NC STATE SENATE DIST 20 NC SENATE DISTRICT 20	TOTAL	11057	6112	9839	8685	2595	11057	6112	9839	8685	2595
1047 NC STATE SENATE DIST 22 NC SENATE DISTRICT 22	Mike Woodard	6686	7339	9187	3366	11779	6686	7339	9187	3366	11779
1047 NC STATE SENATE DIST 22 NC SENATE DISTRICT 22	OVER VOTE	1	2	0	0	5	1	2	0	0	5
1047 NC STATE SENATE DIST 22 NC SENATE DISTRICT 22	T. Greg Doucette	904	5293	2493	2521	3276	904	5293	2493	2521	3276
1047 NC STATE SENATE DIST 22 NC SENATE DISTRICT 22	UNDER VOTE	270	607	454	303	626	270	607	454	303	626
1047 NC STATE SENATE DIST 22 NC SENATE DISTRICT 22	TOTAL	7861	13241	12134	6190	15686	7861	13241	12134	6190	15686
1104 NC HOUSE OF REPRESENTATIVES D NC HOUSE DISTRICT 29	Larry D. Hall	6414	234	9480	505	4286	6414	234	9480	505	4286
1104 NC HOUSE OF REPRESENTATIVES D NC HOUSE DISTRICT 29	OVER VOTE	0	0	0	0	0	0	0	0	0	0
1104 NC HOUSE OF REPRESENTATIVES D NC HOUSE DISTRICT 29	UNDER VOTE	537	39	1128	46	632	537	39	1128	46	632
1104 NC HOUSE OF REPRESENTATIVES D NC HOUSE DISTRICT 29	TOTAL	6951	273	10608	551	4918	6951	273	10608	551	4918
1105 NC HOUSE OF REPRESENTATIVES D NC HOUSE DISTRICT 30	Elissa Fuchs	436	1133	1778	1040	2652	436	1133	1778	1040	2652
1105 NC HOUSE OF REPRESENTATIVES D NC HOUSE DISTRICT 30	OVER VOTE	1	2	0	1	1	1	2	0	1	1
1105 NC HOUSE OF REPRESENTATIVES D NC HOUSE DISTRICT 30	Paul Luebke	3393	1575	6772	2193	9381	3393	1575	6772	2193	9381
1105 NC HOUSE OF REPRESENTATIVES D NC HOUSE DISTRICT 30	UNDER VOTE	136	152	360	134	562	136	152	360	134	562
1105 NC HOUSE OF REPRESENTATIVES D NC HOUSE DISTRICT 30	TOTAL	3966	2862	8910	3368	12596	3966	2862	8910	3368	12596
1106 NC HOUSE OF REPRESENTATIVES D NC HOUSE DISTRICT 31	H.M. (Mickey) Michaux, Jr.	6856	5037	1977	7097	558	6856	5037	1977	7097	558
1106 NC HOUSE OF REPRESENTATIVES D NC HOUSE DISTRICT 31	OVER VOTE	0	0	0	0	0	0	0	0	0	0
1106 NC HOUSE OF REPRESENTATIVES D NC HOUSE DISTRICT 31	UNDER VOTE	635	898	196	1103	55	635	898	196	1103	55
1106 NC HOUSE OF REPRESENTATIVES D NC HOUSE DISTRICT 31	TOTAL	7491	5935	2173	8200	613	7491	5935	2173	8200	613
1125 NC HOUSE OF REPRESENTATIVES D NC HOUSE DISTRICT 50	Graig R. Meyer	362	5346	185	1053	103	362	5346	185	1053	103
1125 NC HOUSE OF REPRESENTATIVES D NC HOUSE DISTRICT 50	OVER VOTE	1	1	0	0	0	1	1	0	0	0
1125 NC HOUSE OF REPRESENTATIVES D NC HOUSE DISTRICT 50	Rod Chaney	119	4485	89	1544	44	119	4485	89	1544	44
1125 NC HOUSE OF REPRESENTATIVES D NC HOUSE DISTRICT 50	UNDER VOTE	28	451	8	159	7	28	451	8	159	7
1125 NC HOUSE OF REPRESENTATIVES D NC HOUSE DISTRICT 50	TOTAL	510	10283	282	2756	154	510	10283	282	2756	154
1197 NC COURT OF APPEALS JUDGE (HU	Abe Jones	16594	11283	17414	10149	13327	16594	11283	17414	10149	13327
1197 NC COURT OF APPEALS JUDGE (HU	Bob Hunter	1546	7120	3681	4100	4116	1546	7120	3681	4100	4116
1197 NC COURT OF APPEALS JUDGE (HU	OVER VOTE	4	3	1	4	3	4	3	1	4	3
1197 NC COURT OF APPEALS JUDGE (HU	UNDER VOTE	774	947	877	622	835	774	947	877	622	835
1197 NC COURT OF APPEALS JUDGE (HU	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
1198 NC COURT OF APPEALS JUDGE (ST	Linda Stephens	17103	12199	18108	10602	14169	17103	12199	18108	10602	14169
1198 NC COURT OF APPEALS JUDGE (ST	OVER VOTE	3	5	2	1	1	3	5	2	1	1
1198 NC COURT OF APPEALS JUDGE (ST	Phil Berger, Jr.	1146	6435	3150	3754	3417	1156	6435	3150	3754	3417
1198 NC COURT OF APPEALS JUDGE (ST	UNDER VOTE	666	714	713	518	694	666	714	713	518	694
1198 NC COURT OF APPEALS JUDGE (ST	TOTAL	18918	19353	21973	14875	18281	18928	19353	21973	14875	18281
1199 NC COURT OF APPEALS JUDGE (DI	OVER VOTE	2	3	2	0	1	2	3	2	0	1
1199 NC COURT OF APPEALS JUDGE (DI	Richard Dietz	1388	6907	3605	4008	3878	1388	6907	3605	4008	3878
1199 NC COURT OF APPEALS JUDGE (DI	UNDER VOTE	826	1000	910	642	871	826	1000	910	642	871
1199 NC COURT OF APPEALS JUDGE (DI	Vince Rozier	16702	11443	17456	10225	13531	16702	11443	17456	10225	13531
1199 NC COURT OF APPEALS JUDGE (DI	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
1283 NC DIST COURT JUDGE DIST 14 (14TH JUDICIAL	OVER VOTE	30	8	17	8	4	3	8	17	8	4
1283 NC DIST COURT JUDGE DIST 14 (14TH JUDICIAL	Shamieka LaCher Rhinehart	12908	8681	12630	7502	10834	12908	8681	12630	7502	10834
1283 NC DIST COURT JUDGE DIST 14 (14TH JUDICIAL	UNDER VOTE	1584	2602	2187	1834	2207	1584	2602	2187	1834	2207
1283 NC DIST COURT JUDGE DIST 14 (14TH JUDICIAL	William A. (Drew) Marsh III	4396	8062	7139	5531	5236	4396	8062	7139	5531	5236
1283 NC DIST COURT JUDGE DIST 14 (14TH JUDICIAL	TOTAL	18918	19353	21973	14875	18281	18891	19353	21973	14875	18281
1373 NC COURT OF APPEALS JUDGE (ZA	OVER VOTE	3	2	3	2	1	3	2	3	2	1
1373 NC COURT OF APPEALS JUDGE (ZA	Ricky McRoy Mitchell	16608	11220	17293	10081	13317	16608	11220	17293	10081	13317
1373 NC COURT OF APPEALS JUDGE (ZA	UNDER VOTE	840	1051	945	668	927	840	1051	945	668	927
1373 NC COURT OF APPEALS JUDGE (ZA	Valerie Zachary	1467	7080	3732	4124	4036	1467	7080	3732	4124	4036
1373 NC COURT OF APPEALS JUDGE (ZA	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
1380 US HOUSE OF REPRESENTATIVES D	G. K. Butterfield	16646	11768	11163	10119	12121	16646	11768	11163	10119	12121
1380 US HOUSE OF REPRESENTATIVES D	H. Powell Dew, Jr.	1030	6438	1465	3614	2943	1030	6438	1465	3614	2943
1380 US HOUSE OF REPRESENTATIVES D	J.J. Summerell	341	501	330	387	393	341	501	330	387	393
1380 US HOUSE OF REPRESENTATIVES D	OVER VOTE	3	2	0	0	3	3	2	0	0	3
1380 US HOUSE OF REPRESENTATIVES D	UNDER VOTE	404	588	233	364	372	404	588	233	364	372

Contest and Candidate Information		SPP File out of Unity					Manual Entries				
Contest	Candidate	One-Stop Sites					One-Stop Sites				
		0058	0059	0060	0061	0062	0058	0059	0060	0061	0062
1380 US HOUSE OF REPRESENTATIVES D	TOTAL	18424	19297	13191	14484	15832	18424	19297	13191	14484	15832
1383 US HOUSE OF REPRESENTATIVES D	David Price	423	39	6867	289	1927	423	39	6867	289	1927
1383 US HOUSE OF REPRESENTATIVES D	OVER VOTES	0	0	0	0	0	0	0	0	0	0
1383 US HOUSE OF REPRESENTATIVES D	Sue Googe	57	17	1733	92	451	57	17	1733	92	451
1383 US HOUSE OF REPRESENTATIVES D	UNDER VOTE	14	0	182	10	71	14	0	182	10	71
1383 US HOUSE OF REPRESENTATIVES D	TOTAL	494	56	8782	391	2449	494	56	8782	391	2449
1393 NC SUPREME COURT ASSOCIATE JU	Michael R. (Mike) Morgan	14344	10769	15035	9284	11975	14344	10769	15035	9284	11975
1393 NC SUPREME COURT ASSOCIATE JU	OVER VOTE	7	10	9	3	12	7	10	9	3	12
1393 NC SUPREME COURT ASSOCIATE JU	Robert H. (Bob) Edmunds	2611	5955	4432	3735	4250	2611	5955	4432	3735	4250
1393 NC SUPREME COURT ASSOCIATE JU	UNDER VOTE	1956	2619	2497	1853	2044	1956	2619	2497	1853	2044
1393 NC SUPREME COURT ASSOCIATE JU	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
1395 NC LIEUTENANT GOVERNOR	Dan Forest	1204	7019	3386	3971	3709	1204	7019	3386	3971	3709
1395 NC LIEUTENANT GOVERNOR	Jacki Cole	339	389	505	349	367	339	389	505	349	367
1395 NC LIEUTENANT GOVERNOR	Linda Coleman	16998	11570	17728	10302	13852	16998	11570	17728	10302	13852
1395 NC LIEUTENANT GOVERNOR	OVER VOTE	4	3	1	1	3	4	3	1	1	3
1395 NC LIEUTENANT GOVERNOR	UNDER VOTE	373	372	353	252	350	373	372	353	252	350
1395 NC LIEUTENANT GOVERNOR	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
1396 NC COURT OF APPEALS JUDGE (GE	Donald Ray Buie	557	797	964	655	665	557	797	964	655	665
1396 NC COURT OF APPEALS JUDGE (GE	Hunter Murphy	1060	6285	2893	3639	3255	1060	6285	2893	3639	3255
1396 NC COURT OF APPEALS JUDGE (GE	Margaret Eagles	16564	11384	17291	10002	13586	16564	11384	17291	10002	13586
1396 NC COURT OF APPEALS JUDGE (GE	OVER VOTE	9	9	1	4	4	9	9	1	4	4
1396 NC COURT OF APPEALS JUDGE (GE	UNDER VOTE	728	878	824	575	771	728	878	824	575	771
1396 NC COURT OF APPEALS JUDGE (GE	TOTAL	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
BALLOTS CAST - TOTAL	Ballots Cast	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281
BALLOTS CAST - TOTAL	All	18918	19353	21973	14875	18281	18918	19353	21973	14875	18281

*Differences appear in yellow highlight, above.

Hearing Transcript

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DURHAM COUNTY BOARD OF ELECTIONS

November 18, 2016

(Challenge to Vote Totals)

Members present:

Chairman William J. Brian Jr.

Secretary Dawn Braxton

Member Margaret Cox Griffin

County attorney present:

Senior Assistant County Attorney Marie Inserra

Staff present:

Kate Cosner

George McCue

Others present:

Thomas Stark

Kevin Hamilton

Eddie Speas

NOTE: "*" is used for phonetic spelling

REPORTED VIA RECORDING BY:

Brenda Steinman, CCR #2717

Court Reporter

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1 P R O C E E D I N G S

2 MR. BRIAN: This is to open canvass.

3 And Ms. Kate, can you tell us what the most
4 recent advisement from the State Board is with regard
5 to canvass?

6 MS. COSNER: Well, I believe what you're
7 doing is actually coming out of recess from last
8 night.

9 MR. BRIAN: That's correct.

10 MS. COSNER: Is that correct?

11 MR. BRIAN: We're coming out of recess from
12 last night. You're right.

13 MS. COSNER: So we are not officially
14 starting canvass yet. And the guidance that we're
15 being given -- the guidance we're being given from the
16 State Board of Elections is to not go into canvass
17 until we receive the provisionals from the court
18 order, that we have not received from the State Board
19 of Elections as of yet.

20 MR. BRIAN: Okay. So actually I think the
21 board is coming out of recess from its meeting last
22 night; we're opening the canvass meeting.

23 MS. INSERRA: Yes. We are opening the
24 canvass meeting, and we will not close the canvass
25 meeting until --

1 MR. BRIAN: Right.

2 MS. INSERRA: -- we have that order.

3 MR. BRIAN: I got that.

4 So well, what I will -- I'd ask the board to
5 give me a motion to recess the canvass meeting until
6 5:00 o'clock on Friday.

7 Is that right, Dawn?

8 MS. BRAXTON: Yes.

9 MS. COSNER: You have officially opened
10 canvass.

11 MR. BRIAN: 5:00 o'clock on Monday, excuse
12 me.

13 MS. COSNER: You have officially opened
14 canvass right now.

15 MR. BRIAN: We have officially opened
16 canvass. I'm now asking for a motion to recess
17 canvass until 5:00 o'clock Monday afternoon.

18 MS. INSERRA: That's correct.

19 MS. GRIFFIN: I move that we re -- tell me
20 again.

21 MR. BRIAN: Recess canvass.

22 MS. GRIFFIN: -- recess canvass until
23 5:00 o'clock --

24 MR. BRIAN: Monday afternoon.

25 MS. GRIFFIN: -- Monday afternoon.

1 MS. BRAXTON: Second.

2 MR. BRIAN: So it's been moved and second
3 that we recess the canvass until 5:00 o'clock Monday
4 afternoon so we can receive the necessary information
5 from the State Board and complete our counts.

6 All in favor say "aye."

7 BOARD: Aye.

8 MR. BRIAN: Opposed?

9 All right. So canvass is now officially
10 recessed until 5:00 o'clock on Monday afternoon.

11 The other order of business we have this
12 morning is the protest of Mr. Tom Stark that we held
13 the preliminary hearing in on Wednesday this week.

14 Before we get started, building services has
15 asked me to say two things to you. First, restrooms
16 are across the hall across from the elevators, if you
17 need them.

18 Please also remember, I've just done it,
19 silence your cell phones. Okay? Everybody turn off
20 your cell phones.

21 Third thing I'd ask you to do -- this is a
22 quasi judicial hearing. What that means is that it is
23 similar to a court proceeding. We will hear evidence,
24 evidence will be taken under oath. We will not allow
25 hearsay. The strict rules of -- which means that

1 we're not going to listen to what people told you. If
2 anybody has evidence to provide, we're going to go on
3 the basis of direct facts known by the witnesses
4 themselves.

5 We're not going to accept documents that
6 aren't authenticated. We're going to maintain the
7 fair-trial standards, which are set forth in Humble
8 Oil versus Town of Chapel Hill/Aldermen, from the late
9 50s as I recall, as best we can. And as a result that
10 means that this is not a public meeting, as I said
11 before, where everybody can just come up and state
12 their opinion.

13 If you have a fact that you can testify to
14 directly, you're entitled to testify either pro or con
15 the petition.

16 Let's see, anything else I need to say about
17 that.

18 All the witnesses will be sworn.

19 What I would ask, I would ask please, this
20 is a quasi judicial matter, it's like being in court,
21 could we lose the protest signs? Is that something
22 that you think you could put those down, please. This
23 is not -- this is not a situation where politics
24 enters into it. We're here in a quasi judicial
25 capacity.

1 (Audience laughter.)

2 MR. BRIAN: That's the second thing I'd like
3 to say. We're going to hear evidence -- ladies and
4 gentlemen, we're going to hear evidence today. On the
5 basis of that evidence we'll make a decision. That's
6 the first thing I'm going to say.

7 So the second thing I'm going to say is is
8 that if we can't -- we need to keep our outbursts
9 under control. There is nothing funny about this.
10 There is nothing funny about any of the testimony that
11 you're going to hear. People are here in a sincere
12 capacity to try to do what they think is right.

13 So if we can't keep our outbursts under
14 control, we will recess until everybody comes under
15 control. If we can't get under control, then I'll
16 have the room cleared. I would prefer not to do that,
17 because I think the -- it's very important to have
18 these proceedings open to the public and that the
19 public participate in them as observers.

20 So is there any other preliminary business
21 that we need to cover this morning?

22 Ms. Inserra, do you have any advice for us?

23 MS. INSERRA: Mr. Brian, I have full
24 confidence in your ability to handle (inaudible) of
25 judicial hearings, but I'm here for you. Nothing

1 preliminarily.

2 MR. BRIAN: Anybody else have any comments
3 or questions?

4 If not, Mr. Stark --

5 Actually what --

6 MS. INSERRA: We have a pro hac vice motion
7 (inaudible) before us.

8 MR. BRIAN: That's right. We have a pro hac
9 vice motion before us to allow Mr. Kevin Hamilton to
10 appear before us on behalf of the democratic party and
11 the McCrory campaign.

12 Is that correct, Mr. Hamilton?

13 MR. HAMILTON: That's correct.

14 MR. BRIAN: And my understanding is that
15 your local counsel for that petition is Mr. --

16 MR. HAMILTON: Eddie Speas.

17 MR. BRIAN: -- Eddie Speas.

18 MR. SPEAS: Here.

19 MR. BRIAN: Yes, Mr. Speas.

20 Is there an objection?

21 MR. STARK: I'm not aware of a petition.

22 MR. BRIAN: It came in this morning. It's a
23 petition for pro hac vice admission for this body. I
24 don't even know if it's necessary, to be honest with
25 you, but one was made and I don't have any objection

1 to it.

2 Anybody on the board have any objection to
3 it?

4 MS. BRAXTON: No objection from me.

5 MR. BRIAN: Hearing none, we'll permit you
6 to appear, sir --

7 MR. HAMILTON: Thank you.

8 MR. BRIAN: -- pro hac vice. Okay.

9 For those of you who don't know what that
10 means, it means an attorney from another state who's
11 not licensed in the state of North Carolina is being
12 permitted to appear as an attorney in North Carolina.

13 He's got an affidavit that he has submitted
14 and a motion. And there is local counsel who is
15 basically his surety and is responsible to make sure
16 that he complies with all of our rules. And if he
17 doesn't, then we punish local counsel. That's the way
18 that works.

19 MS. INSERRA: If I could just say, there
20 is -- it's a bit of a formality, because there is a
21 Court of Appeals case that states that you don't
22 necessarily even have to have or be represented by
23 counsel before certain agencies, but erring on the
24 side of caution, you know --

25 MR. BRIAN: Well, I understand that.

1 MS. INSERRA: Yeah.

2 MR. BRIAN: The problem, I think that
3 they've anticipated, and which I will actually agree
4 with, is that he will be here acting in the capacity
5 as an attorney without having a license to practice
6 law in North Carolina. Even though they don't need
7 him to be here, and could act on their own behalf, he
8 is here on behalf of them and is going to act as an
9 attorney.

10 And so in that situation I think that he
11 probably does need to be allowed, or at least it's out
12 of an abundance of caution I think it makes sense for
13 them to deal with it like this.

14 MS. INSERRA: Thank you.

15 MR. BRIAN: That's why we're doing that.
16 Okay? All right.

17 MR. STARK: Mr. Chairman?

18 MR. BRIAN: Stand up and come to the
19 microphone.

20 Everything -- that's the other thing we need
21 to do. Anybody who wants anything that they say to be
22 recorded on the record needs to speak into the
23 microphone.

24 MR. STARK: This is Tom Stark. Just one
25 question. He's representing who here today?

1 MR. BRIAN: He's representing the McCrory
2 cam -- excuse me, the McCrory campaign and the
3 democratic party.

4 Am I correct, Mr. Speas?

5 MR. SPEAS: That's correct, your Honor.

6 MR. STARK: Thank you.

7 MR. BRIAN: All right. You don't have to
8 call me your Honor, by the way. I'm just a lawyer
9 like you.

10 At this time the procedure that we're going
11 to follow is I'm going to call -- I think most of you
12 were here at the hearing that we had on Wednesday, at
13 which time we received an affidavit from a technical
14 adviser from the -- or technical expert from the State
15 of North Carolina. That affidavit itself is hearsay,
16 and therefore is not, in my opinion, is not proper
17 evidence before this board for this hearing, and so
18 that gentleman is here this morning. He's going to
19 testify --

20 By the way, in a hearing like this people
21 are encouraged to testify in narrative form rather
22 than have to have somebody ask questions; it is not
23 necessary to do it that way. Just get up and tell
24 your story, and tell us all the things that were in
25 the affidavit. We're going to start with him.

1 The folks from Nebraska with ES&S; is that
2 correct, are also here who were here on Wednesday.
3 They're going to testify as well. So we can sort of
4 set the stage for where we were on Wednesday to start
5 off with, and then Mr. Stark will have an opportunity
6 and his team will have an opportunity to
7 cross-examine. And every witness is subject to
8 cross-examination.

9 So yes, Mr. Stark, you look like you're
10 about to hop up again.

11 MR. STARK: Thank you. Mr. Chairman, I
12 would -- a table has been provided, but it's back here
13 in the corner. If there is some way to have a table
14 where we can be part of the proceedings, that would
15 be --

16 MR. BRIAN: Is there any reason why the
17 table can't go right there between you -- the podium
18 and your chair?

19 UNKNOWN SPEAKER: She told him the fire
20 marshal told him not to put it there.

21 MR. BRIAN: Can't put it there?

22 UNKNOWN SPEAKER: Yeah. She said the fire
23 marshal told them to put it over there.

24 MR. BRIAN: Can you put it on this side --

25 UNKNOWN SPEAKER: She just --

1 MR. BRIAN: -- between the podium and the
2 wall?

3 UNKNOWN SPEAKER: We're not --

4 MR. BRIAN: Is the fire marshal present?

5 UNKNOWN SPEAKER: I just heard that part.

6 MR. BRIAN: Here comes the fire marshal.
7 This is starting off good already. Put it there,
8 yeah, that's --

9 Mr. Stark, are you satisfied with your table
10 now?

11 MR. STARK: Thank you.

12 MR. BRIAN: Okay. Thank you. All right.

13 So at this time I would like to ask all the
14 witnesses who signed in -- first of all, I'm going to
15 say it again. If you want to testify today, you sign
16 in up there at the sheet. And then if you anticipate
17 providing evidence, I want you to come forward now to
18 be sworn by the court reporter. Everybody come
19 forward to be sworn.

20 Mr. Stark, I think you need to be sworn as
21 well.

22 MR. STARK: Do I need to sign as well?

23 MR. BRIAN: Yes, you do, as petitioner. I
24 expect you to be cross-examined.

25 All you folks need to come up to be sworn.

1 I know you were sworn on Wednesday, but let's swear
2 you again just for the record.

3 (Line of people being sworn.)

4 MR. BRIAN: George, you better go up and get
5 sworn in, just so I don't have to stop the thing.

6 All right. Thank you very much. At this
7 time the board will call Mr. Neesby.

8 Mr. Neesby, could you come over to this one.
9 We're going to use this one for Mr. Stark and his
10 presentation.

11 Before we get started, I do want to go on
12 record thanking the State Board of Elections for
13 making Mr. Neesby present here this -- available this
14 morning pursuant to subpoena, and waiving service and
15 all of that; that was very kind of you.

16 Also like to thank the county commissioners
17 and county manager, Wendell Davis, for making this
18 room available to us. We would not have been able to
19 let you all in to the other rooms, and you'd be
20 sitting in the hallway or watching on TV, or something
21 like that. So I really appreciate the county
22 commissioners and the county administrative staff for
23 working with us so much in this week. We really
24 appreciate that. So thank you very much to them.

25 And I also thank the Health and Human

1 Services Department for letting us use this room.
2 I've never been over here before; it's a lovely
3 building.

4 Okay, Mr. Neesby. Could you start off, just
5 sort of bring us up to date. Tell us who you are,
6 what you -- your background, what it is, and what it
7 is you did with regard to the analysis of the
8 materials that are before -- that are at issue this
9 afternoon in this hearing.

10 BRIAN NEESBY, witness herein, having been
11 previously sworn on oath,
12 testified as follows:

13 E X A M I N A T I O N

14 BY MR. NEESBY:

15 Certainly. I am a business systems analyst
16 at the State Board of Elections. I've been working
17 there for roughly two years. Before that I was a
18 business systems analyst for Toyota motor sales since
19 2006.

20 And part of my job I will often look at both
21 Unity reports, which is the aggregation software that
22 aggregates totals on election day, and I also look at
23 a lot of voter registration data as part of my job
24 with the State Board.

25 So on election night I was told about five

1 particular errors having to do with machine totals
2 that were being trying to read into the Unity
3 aggregation software. We call that Unity.

4 And how that works is there is a tabulation
5 machine -- I think a lot of this will be rehashed of
6 the preliminary hearing. But there is a tabulation
7 machine where ballots are fed into. That goes onto a
8 card; we call that a PCMCIA card. And that card is
9 then fed into the Unity terminal, which is a computer,
10 and sometimes those cards don't read. And there is
11 various reasons why they may not read onto the Unity
12 aggregation software.

13 So I was reported about these errors, or
14 purported errors, on election night. And so I was
15 told the County Board of Elections did what they're
16 supposed to do when those things happen; they did
17 manual entries on that night and they reported those
18 totals a little later than expected.

19 Later in the week, Executive Director Strach
20 asked me to look into those errors to see why those
21 errors occurred.

22 And so then I reached out to Cosner,
23 Ms. Cosner, Mrs. Cosner, to determine if they -- she
24 could get me some files that would help me look into
25 those errors. She provided a couple of files to me.

1 She provided a system log, a results, manual entry
2 log, and also something called elect data folder,
3 which provides me the binary file that the results are
4 read onto in the Unity system.

5 I then -- so backing up slightly. So then
6 my analysis would be why did those errors happen. I
7 looked and saw that those errors had happened on five
8 particular cards that had to do with one-stop
9 locations. And that was given to me in that system
10 log.

11 I then looked at the result -- so the first
12 thing that happens when you put the card into the
13 Unity terminal is it reads onto some file called the
14 SPP file, and that's a binary file. So I decoded that
15 file. And after I had done that, I realized what the
16 problem was.

17 And so this is what I suspect is the
18 problem. Now, I know that ES&S is here, and they have
19 independently told me that they believe that I'm
20 correct, but this is just my theory at this point.

21 Contest totals and candidate totals are read
22 onto a two byte piece of memory. So each candidate
23 total is read onto two bytes, and then the aggregate
24 of that contest is also read onto two bytes of memory.

25 So any two bytes can represent a number from

1 zero to 65,535. Those are the numbers that it can
2 read to. And whenever you go above those numbers, it
3 will try to read onto a third byte of memory, and it
4 can't do so. So the card did what it's supposed to do
5 and it errored saying that your candidate totals don't
6 match your contest totals. That each candidate wasn't
7 adding up to the contest total because it would take
8 three bytes of memory to represent that contest total.
9 So it errored out.

10 After discovering that, I then looked and
11 found evidence that this does -- has happened in the
12 past. And so it verified what I believed happened,
13 that it's happened before. For instance, in 2004 in
14 Guilford there was a letter that said this happened
15 there as well. So this is a fairly rare error,
16 because you have to get above the 65,000 threshold for
17 votes cast, but it happens pretty much -- it has
18 happened before and tends to happen on presidential
19 elections.

20 E X A M I N A T I O N

21 BY THE BOARD:

22 MR. BRIAN: Okay. The question, I guess the
23 question I would ask you is the machines record
24 information both on tape and on electronic media;
25 correct?

1 MR. NEESBY: The machines recorded, yes, on
2 tape and the media, the card.

3 MR. BRIAN: In your sworn statement, which
4 was submitted on Tuesday, you had come up with -- you
5 had made an effort to verify the hand count or the
6 hand entry of the data from the tapes to the Unity
7 system; right?

8 MR. NEESBY: I made an effort to verify the
9 manual entries.

10 MR. BRIAN: How did you do that?

11 MR. NEESBY: So the -- it was -- so when you
12 put the card into the Unity aggregation software, onto
13 the computer, it will still read onto that file called
14 the SPP file. It reads onto it and then it tells you
15 that there is an error. So I could then decode that
16 file and determine what the canvass totals were that
17 were read onto the card even though it didn't
18 aggregate. The system stopped it from aggregating
19 because it noticed an error.

20 So after I read the contest totals, I then
21 compared it to what we received on election night
22 after the manual entries were entered, and then I
23 compared and contrasted the results.

24 MR. BRIAN: So how did you glean the data
25 from the tapes without having the tapes in front of

1 you?

2 MR. NEESBY: Because the tape, even though
3 it errored, it read in error, it still read onto the
4 Unity software. But it prevented that card, those
5 results from being aggregated with the other cards
6 because it noticed an error.

7 So since it read onto the Unity software and
8 that data was presented to me, I asked for that data
9 from Cosner, I got that SPP file and was able to
10 determine what the candidate totals were for that --
11 that were read that night, even though it didn't allow
12 it to aggregate with the other cards.

13 MR. BRIAN: Okay. All right.

14 Any other members of the board have
15 questions?

16 Hearing none.

17 MS. BRAXTON: So Mr. Neesby, with respect to
18 the numbers that you compared in particular with the
19 governor's race, the numbers that were read onto the
20 Unity software, were they identical to the numbers
21 that were manually entered by the Durham County Board
22 of Elections?

23 MR. NEESBY: For the governor's race, yes.

24 MS. BRAXTON: Thank you.

25 (Audience applause.)

1 MR. BRIAN: Again, please hold your
2 applause, folks. That's not (inaudible).

3 Did you check other races?

4 MR. NEESBY: I did. I checked all the
5 contests.

6 MR. BRIAN: All the contests. Did you find
7 any variations?

8 MR. NEESBY: I did.

9 MR. BRIAN: Can you explain to us what
10 variations you found?

11 MR. NEESBY: I'd have to look at my report.

12 MR. BRIAN: Go right ahead and do that.

13 MR. NEESBY: I don't have the exhibit with
14 me.

15 UNKNOWN SPEAKER: Mr. Chairman, can you
16 reference the record. It appears that that wasn't
17 part of the (inaudible).

18 MR. BRIAN: I'm sorry?

19 UNKNOWN SPEAKER: Permission to allow him to
20 access the record that's before you --

21 MR. BRIAN: Yes.

22 UNKNOWN SPEAKER: -- just like it
23 (inaudible).

24 MS. GRIFFIN: Ours aren't highlighted.

25 MR. BRIAN: Ours are not highlighted.

1 MS. GRIFFIN: Is yours highlighted, Dawn?

2 MS. BRAXTON: It is.

3 MS. GRIFFIN: Dawn's is.

4 MR. BRIAN: Here's a copy with the
5 highlighting on it.

6 Do you want to hand this, Mr. Lawson*, do
7 you want to hand that to him? That has the
8 highlighting on it.

9 Let's mark that as Exhibit No. 1, madam
10 court reporter.

11 MR. NEESBY: Okay. There was a single vote
12 difference in the Board of Commissioner races.

13 MR. BRIAN: Can you -- can you tell me what
14 it is you're looking at?

15 MR. NEESBY: So what I'm looking at is an
16 exhibit that I created. And what it has is on the
17 left-hand side, I'll describe it as best I can, it has
18 a list of contests and candidates. And then it shows
19 in the next set of columns the results in the SPP file
20 that were read into Unity. And that shows five
21 different one-stop sites. And those candidate totals,
22 as well as the contest total, which would be the sum
23 of the candidate totals.

24 And then on the last set it shows manual
25 entries that were put into Unity and provided to us

1 through our election software. So it will show
2 various manual entry inconsistencies.

3 There is one vote difference within the
4 Board of Commissioner contest.

5 There is five vote difference within the
6 Museum Bond contest.

7 There is two vote difference in
8 Superintendent of Public Instruction.

9 And I can keep going, but there is very
10 small differences within these contests.

11 MR. BRIAN: What are the -- well, go ahead
12 and run through the races where there were variations
13 and explain --

14 MR. NEESBY: Okay.

15 MR. BRIAN: -- and state how much of a
16 difference there was.

17 MR. NEESBY: Okay. In the N.C. Court of
18 Appeals Judge, I think this is Stephens, there was a
19 ten count difference; it was a transposition of
20 characters.

21 In the District Court race an over vote; so
22 that is something that doesn't show up. Someone over
23 voted the contest and therefore that won't be counted.
24 There was manually entered three, when it should have
25 been 30. At least that's my theory at this time. And

1 that's it.

2 MR. BRIAN: Okay. And your -- the
3 discrepancies that you've noted, they reflect
4 discrepancies between the manual entry and what was
5 read into the system by the cards, even though the
6 cards were not able to fully integrate into the
7 software; is that correct?

8 MR. NEESBY: That is correct.

9 MR. BRIAN: And let me clarify this again
10 with you. And if you're not the right person to ask,
11 tell me that.

12 MR. NEESBY: Okay.

13 MR. BRIAN: The software in question is not
14 the software that reads the data, it's the software
15 that integrates the data that's read into the overall
16 data for the state; is that correct?

17 MR. NEESBY: Not -- not precisely. It's
18 close.

19 The Unity system is actually Durham's
20 election, but you have several precincts and several
21 one-stop sites. So the tabulation software exists in
22 the firmware of the machine, the tabulator itself; it
23 just doesn't aggregate with the other cards, that is
24 where the error happened, the other cards existing
25 within your system.

1 Then you will send it to the State Board
2 system, and then it will be aggregated with the other
3 votes that are statewide.

4 MR. BRIAN: Okay. All right. Any other
5 questions for Mr. Neesby?

6 MS. GRIFFIN: I have one question.

7 MR. BRIAN: Yes, ma'am. Find a microphone.

8 MS. GRIFFIN: So my question is when this
9 happened in 2004 in Guilford County, do you know
10 whether or not they recounted the ballots?

11 MR. NEESBY: I do not.

12 MS. GRIFFIN: Okay.

13 MR. NEESBY: And let me just clarify. It is
14 my belief that the same type of error happened. I
15 can't be sure.

16 MR. BRIAN: Okay. Any other questions from
17 the board?

18 Hearing none. Mr. Stark, do you have any
19 cross-examination?

20 MR. STARK: Thank you, Mr. Chairman.

21 E X A M I N A T I O N

22 BY MR. STARK:

23 Q. Mr. Neesby, let me understand this software
24 now. The software you're talking about is --

25 MR. BRIAN: Talk into the mic.

1 Q. (By Mr. Stark) The software we're talking
2 about is the Unity software?

3 A. That's correct.

4 Q. And is that the software running on the
5 tabulator as well?

6 A. So Unity is the entire software suite, if it
7 were. The particular software I'm talking about is a
8 sub-module of that called the election recording
9 manager, and that's what aggregates all the total --
10 or all the cards together after they're done being
11 tabulated.

12 Q. And you said there was a limit of 65,000
13 votes?

14 A. There is a limit for votes cast, yes, per
15 precinct per contest.

16 Q. And does this same ceiling apply to the
17 PCMCIA card?

18 A. I don't deal with the software that is in
19 the PCMCIA cards. ES&S can probably better handle
20 that.

21 Q. And --

22 A. I --

23 Q. I'm sorry, go ahead.

24 A. Anything I gave would be hearsay from them.

25 Q. And do you know what the software

1 limitations are of the counting function of the
2 tabulator?

3 A. I do not.

4 Q. With respect to the matters in this
5 particular protest, there was also a precinct,
6 Precinct 29, that had an error.

7 How do you explain that error?

8 A. That particular card did read onto the Unity
9 software. There was instead a card read error. So if
10 we were to assume that that was the same card, then
11 that would be its function.

12 Where I've seen that in the past is there is
13 a battery, the battery dies between exiting the
14 machine, before it has time to be entered into the
15 Unity terminal, and so it doesn't actually -- it's not
16 even read onto the SPP file that I mentioned.

17 Q. But you didn't examine the card?

18 A. I haven't examined any cards at all.

19 Q. So -- and you haven't interrogated the cards
20 then from a machine to see what might have been in the
21 card, or going on with the card, or whether there were
22 any anomalies in the way that it recorded the data;
23 correct?

24 A. I don't have access to the cards.

25 Q. With respect to your findings here -- strike

1 that. Let me ask you a question about the way in
2 which this data is put together.

3 So in the County Commissioner race, if we
4 take 58 on your table, there were 14,000, roughly a
5 little over 14,000 votes apparently being cast at that
6 polling place; correct?

7 A. There is 14,000 votes being cast for a
8 particular candidate.

9 Q. Correct. And so is it the number of votes
10 cast in that race that build you up towards the 65,535
11 limit?

12 A. So if any candidate had miraculously got
13 over 65,000 votes, that would have errored out. But
14 also the Unity, the card -- the contest total itself,
15 which is an aggregate of all those candidates, is also
16 attempted to be read onto the Unity software, that SPP
17 file. So either one would cause an error if either
18 one went over the 65,000 threshold in my opinion.

19 Q. And so if your early voting sites were going
20 to have 14 to 20 some thousand voters, it was not
21 possible to tabulate the votes in the County
22 Commissioner's race; correct?

23 A. Because it's a vote for five, yeah, that is
24 why the votes cast got above the 65,000 threshold,
25 because the total was -- when you multiply it by five,

1 it gets over 65,000 votes cast because every voter can
2 vote up to five times.

3 Q. So keeping a machine open for the entire, in
4 other words continuing to total throughout the entire
5 early voting period was an erroneous use of this
6 application. Is that what you're saying?

7 A. I'm not saying that.

8 Q. Well, if in fact you had 14,000 or more
9 votes being cast in a race with five, you're going to
10 limit out the system; right?

11 A. If there are -- the card, as far as we can
12 tell it read -- it has the votes. The only -- there
13 are two ways to enter into the Unity system, manual
14 entry and then there is the cards. They did the
15 correct thing back in actually doing the manual entry.
16 I don't know if it's -- there are ways this could have
17 been avoided, that is for sure.

18 Q. In other words if you had closed the
19 machines every day, you wouldn't have run into this
20 limit; right?

21 A. No. You have -- do you mean closed and take
22 out the card and put a different card in?

23 Q. Correct.

24 A. Then you would print a tape, and we're not
25 allowed to print tapes prior to a can -- prior to

1 election night. So that wasn't an option. There were
2 other options that could have been done.

3 Q. What are those?

4 A. They could have had multiple machines at the
5 one-stop site, as one example.

6 Q. But with these machines, if you thought you
7 were going to exceed that limit, then you're going to
8 create this problem; is that right?

9 A. If you limit -- you would have -- you would
10 be forced to on election night do a manual entry, yes.

11 Q. Now, if you have a limit on the number of
12 votes that can be collected, does it have -- doesn't
13 it affect the tape as well?

14 A. That is beyond my knowledge. I don't -- I'm
15 not a voting systems specialist.

16 Once again, I've been told it does not, but
17 that is hearsay. So I can't --

18 Q. I notice that there are errors between the
19 manual entry and the machine entry in other races that
20 don't have as many votes cast; correct?

21 A. There are manual entries -- in my opinion,
22 if this is correct, it shows that there are manual
23 entry mistakes, that when they typed it into the
24 system they transposed a couple characters. These
25 aren't software errors. (Inaudible).

1 Q. Have you examined the number of actual
2 ballots versus these totals?

3 A. Could you repeat? What do you mean by
4 examine? I haven't examined ballots.

5 Q. You haven't counted the ballots or the votes
6 on the actual ballots; correct?

7 A. I haven't ran a ballot through a tabulator
8 machine, if that's your question.

9 Q. And you haven't confirmed whether either of
10 the numbers that appear on your report are accurate;
11 have you?

12 A. No; that wasn't my job.

13 Q. So we still don't know whether the ballots
14 that are in the bin are equal to the numbers that are
15 showing here; do we?

16 A. We don't know if the ballots in the machine
17 are equal to the number of ballots?

18 Q. Right. Shown here on these reports.

19 A. We know to the same extent we know of any
20 tabulation process.

21 Q. Do you mean by that that there are potential
22 errors in any tabulation process?

23 A. No. What I mean is that when we run in any
24 county ballots through the tabulation machine, that's
25 how we tabulate that precinct or that county. We

1 don't, unless there is a hand-eye recount, which has
2 its own potential problems, that would be another way
3 to verify that. But in part of my audits I obviously
4 don't go and recount ballots.

5 Q. So you're just then looking at the manual
6 entry of the audit tapes versus the card -- what the
7 Durham Board of Elections reported to you that they
8 uploaded from the machines; is that right?

9 A. I am comparing the manual entries that are
10 uploaded to originally the Unity software, and then
11 come to our system, and I'm comparing that to what was
12 uploaded to the Unity machine by the card, which
13 result in the SPP file being updated, and I'm
14 comparing those numbers.

15 MR. STARK: All right. Thank you.

16 MR. BRIAN: Are there any questions for this
17 witness from you, sir?

18 MR. HAMILTON: Yes.

19 E X A M I N A T I O N

20 BY MR. HAMILTON:

21 Q. Good morning, Mr. Neesby. I just have a
22 couple of questions for you.

23 In the normal use of the M100 tabulation
24 machine, the voter votes the ballot and then the
25 ballot is fed through the tabulator; is that correct?

1 A. That is correct.

2 Q. And the purpose of the tabulator machine is
3 to read the votes on the ballot; correct?

4 A. That is correct.

5 Q. And then those votes are recorded on the
6 PCMCIA card; is that right?

7 A. That is my understanding.

8 Q. Okay. And at the end of the night when
9 they're closing the poll and they turn off the
10 machine, it prints out a tape; doesn't it?

11 A. That is correct.

12 Q. And it looks like a long cash register tape?

13 A. That is correct, yes.

14 Q. And then the ballot -- the judges, at that
15 place, sign that tape; don't they?

16 A. That is what they're supposed to do.

17 Q. That's the official record of the votes from
18 that precinct; correct?

19 A. The tape is considered the official record,
20 yes.

21 Q. Okay. And then the PCMCIA card is taken
22 over and fed into a different computer as a means of
23 transferring the votes from the tabulator to the Unity
24 software; is that right?

25 A. That is correct.

1 Q. And if I read your declaration correctly, in
2 fact it did transfer those votes to the Unity system;
3 right?

4 A. It -- it did. It transferred the votes per
5 candidate; had a problem when it tried to aggregate
6 the contest totals. It didn't read the third byte
7 into memory.

8 Q. Right. So it copied the data into the Unity
9 software, and the only problem that we have here is it
10 wasn't able to add -- do the math to add up to a
11 total; right?

12 A. For that particular contest, yes.

13 Q. Okay. And that particular contest is the
14 governor's contest.

15 A. It's the Board of Commissioners contest.

16 Q. Okay. So you've now looked at -- you've
17 looked at the data that's recorded in the Unity
18 software and you've looked at -- and confirmed that
19 the data, the totals from the tabulation machines, the
20 five tabulation machines, are actually recorded in the
21 system; correct?

22 A. I -- say that one more time. I'm not sure
23 I --

24 Q. You've looked at the Unity system --

25 A. Right.

1 Q. -- and confirmed that the vote totals in the
2 Unity system were -- actually include the totals from
3 these five PCMCIA cards.

4 A. I confirmed that it's put into the Unity
5 system. It didn't aggregate with the other cards.

6 Q. Okay.

7 A. It was a separate manual entry process.

8 Q. All right. And then we talked for a moment
9 about Precinct 29. Do you recall that?

10 A. Yes.

11 Q. Now, these -- let's talk for a second about
12 the PCMCIA cards. Those cards have a little watch
13 battery in them; don't they?

14 A. I don't know if it's a watch battery. It
15 looks like a watch battery.

16 Q. One of those little round ones you get at
17 the drug store; right?

18 A. Yeah. Something like that, yeah.

19 Q. And there is no physical memory on those
20 cards.

21 A. This is beyond the purview of my --

22 Q. You don't know.

23 A. -- expertise.

24 Q. Okay.

25 A. But I've been told that.

1 Q. You have been told that.

2 A. That there is no physical memory on the
3 cards?

4 Q. Yes.

5 A. Well, there is memory on the cards.

6 Q. Okay.

7 A. That's how it's able to read the cards.

8 Q. When the battery dies, everything gets
9 erased off that card; doesn't it?

10 A. It would be hearsay if I were to answer
11 that.

12 Q. Okay. We know that the card was working
13 fine when the tapes were printed from Precinct -- if
14 tapes were printed from Precinct 29; isn't that right?

15 A. We have evidence that the card is working
16 accurately. We -- the tapes printed accurately. As
17 far as I could tell, there is a tape printed up. I've
18 not been told of a tape not being printed for 29.

19 Q. Okay. And you haven't had a chance to
20 examine the tape from --

21 A. Tapes or the cards, no.

22 MR. HAMILTON: Thank you, sir.

23 No further questions, Mr. Chairman.

24 MR. BRIAN: Thank you very much. Anybody
25 else have any questions to ask?

1 MR. STARK: Mr. Chairman, I'd like to follow
2 up on a --

3 MR. BRIAN: One redirect -- or recross,
4 excuse me.

5 E X A M I N A T I O N

6 BY MR. STARK:

7 Q. Mr. Neesby, in fact at the early voting
8 sites the machine is not closed down and the tape run
9 each day; is it?

10 A. The tape is not run each day, no. That's my
11 understanding.

12 Q. And so for the entire period of early
13 voting, that machine is capable of being voted; is
14 that right?

15 A. When polls are open, people can come in and
16 vote those machines.

17 Q. But the machine still could be voted any
18 time of day; correct?

19 A. If you mean technically versus --

20 Q. Yes, technically.

21 A. It is my understanding technically --

22 Q. Not legally, but technically.

23 A. Technically the machines, anyone -- if you
24 put a vote -- if you open up the machine, have a key
25 and you turn it on, and you key in a ballot, it would

1 count it. My understanding is they were locked up in
2 between voting times.

3 Q. And is the machine, if it's turned off, does
4 it -- is it capable of holding those votes?

5 A. It wouldn't -- it wouldn't allow the vote to
6 go through the tabulator, is my understanding.

7 Q. So if it's turned off, the machine is still
8 on for purposes of running the memory, or not?

9 A. Does the machine have -- the machine is not
10 battery powered (inaudible).

11 Q. If it's turned off or unplugged, you know,
12 were these -- do you know whether these --

13 A. It is turned off. I assuming it's plugged
14 on. That doesn't have any relation, that I
15 understand, to the memory in the device.

16 Q. So the memory is dependent on this round
17 battery that failed, that you talk about?

18 A. The memory of the machine, the tabulator?

19 Q. Correct.

20 A. Are you talking -- so this is, once again,
21 ES&S. You want to ask them how the machine tabulation
22 works and how the memory in the actual tabulator
23 machine works.

24 Q. Correct.

25 So you can't today testify to the accuracy

1 of the data that you looked at vis-a-vis the ballots,
2 you just compared the two data streams; is that right?

3 A. That is correct. I just compared what was
4 read onto the Unity software via card and what was
5 mainly entered into the Unity software via people, and
6 then compared the two and showed where there was any
7 discrepancies.

8 Q. So if there is a limit in the Unity software
9 to the number of votes, as you accumulate the votes
10 from around the county do you hit that limit in other
11 races?

12 A. If I accumulate votes from other -- no.

13 Q. Other precincts.

14 A. It's a per card limitation, as I've been
15 told from ES&S.

16 Q. So per card, meaning per precinct or per
17 voting machine.

18 A. Usually that's per precinct. The card is a
19 one-stop site. The per context -- and ES&S can
20 definitely clarify the precise ramifications and
21 precise limits that are for the election board to
22 manage their software.

23 Q. If you have two bytes available memory, what
24 happens to votes when you exceed that limit?

25 A. It records those two bytes, and then it

1 attempts to record a third byte of memory. And so you
2 will notice that the left-hand side is actually 65,536
3 different from the right side for those particular
4 contest totals; that's because it's trying to record
5 an extra byte of memory, of one particularly, into
6 that third byte spot and cannot do it.

7 Q. And so it simply doesn't record.

8 A. That's correct, into the SPP file.

9 MR. STARK: Thank you.

10 MR. BRIAN: Any other questions?

11 All right. I'm going to excuse Mr. Neesby
12 so that he can go back to work.

13 MR. STARK: That's fine.

14 MR. BRIAN: And try and continue with the
15 statewide canvasses, so I want to make sure everybody
16 knows that he isn't going to be here for any more
17 questions.

18 Mr. Neesby, do you have your affidavit with
19 you?

20 MR. NEESBY: Yeah, right here.

21 MR. BRIAN: All right. Can we mark that as
22 Exhibit B or Exhibit 2, I guess. Whatever. A's, B's,
23 2's, whatever we're using.

24 And Mr. Neesby, would you -- are the
25 statements that are made in your affidavit true and

1 correct, to the best of your knowledge?

2 MR. NEESBY: They are.

3 MR. BRIAN: All right. We'd like to enter
4 into that into the record.

5 And one other thing. It occurred to me when
6 Mr. Neesby was testifying that we don't -- we
7 didn't -- we haven't laid a lengthy foundation of what
8 happened on election night for the purposes of this
9 record.

10 So in order to avoid spending an hour and a
11 half doing that, I'm going to suggest that the board
12 take judicial notice of the press release that was
13 prepared by the board and came out, and mark that as
14 Exhibit 3.

15 And I think George you have a copy of that,
16 do you not?

17 MR. McCUE: We're having the county send --

18 MR. BRIAN: We're having one bring it over.
19 Well, when it comes over, we'll mark it whatever
20 exhibit number we've reached.

21 Does anybody object to that?

22 MR. STARK: I haven't seen it, but I guess
23 the chairman can fill in.

24 MR. BRIAN: All right. We're going to take
25 judicial notice -- just so that if this record is ever

1 examined by another body, they'll be able to have a
2 background on exactly how we got to Mr. Neesby's
3 testimony and all the other testimony we're going to
4 have today, which I don't think there is any
5 controversy over any of that, about the events of
6 election night that won't be brought out through
7 Mr. Stark's cross-examination today I'm sure.

8 So is there any other questions for
9 Mr. Neesby? If there are none, then I'm excusing you,
10 Mr. Neesby. Thank you very much for your testimony.

11 All right. Can we hear from ES&S, please.

12 MS. ROGERS: Thank you. With technical
13 questions we'll let them speak first.

14 MR. BRIAN: Well, whoever you all want to
15 have up there is fine. Why don't you come on up. And
16 I understand you've already been sworn, this is
17 Mr. Ben Swartz; is that correct?

18 MR. SWARTZ: That is correct.

19 MR. BRIAN: Thank you.

20 BEN SWARTZ, witness herein, having been
21 previously sworn on oath,
22 testified as follows:

23 E X A M I N A T I O N

24 BY THE BOARD:

25 MR. BRIAN: Mr. Swartz, could you give us

1 just a brief on your background and what it is you do
2 and why it is you're here.

3 MR. SWARTZ: Sure. I'm the state
4 certification manager here from North Carolina. I'm
5 from ES&S, or Election Systems & Software. I'm here
6 to provide any technical facts, I guess of the
7 situation.

8 MR. BRIAN: All right. Can you just briefly
9 describe your understanding of what happened to these
10 cards on election night.

11 MR. SWARTZ: Sure. So after polls --

12 MR. BRIAN: And explain the basis for your
13 understanding as well, please.

14 MR. SWARTZ: Sure. After polls closed
15 everything was written to the PCMCIA card, and then
16 that PCMCIA card was brought into the county
17 accumulation center or PC. We call that accumulation
18 or aggregation of results in the ERM software. That's
19 what Brian was alluding to.

20 And when they attempted to read that PCMCIA
21 card, there was a message presented to the user that
22 the -- you know, they exceeded some -- this particular
23 limit. This particular limit is a total votes cast
24 limit, and our limit stated in our documentation is
25 65,530.

1 MR. BRIAN: Let me ask you a question about
2 that, because --

3 MR. SWARTZ: Sure.

4 MR. BRIAN: -- because I may have just
5 learned something new this morning.

6 So the PCMCIA cards, they recorded all of
7 the vote totals except for the County Commissioner
8 races; is that correct?

9 MR. SWARTZ: That's not necessarily correct.
10 PCMCIA card, it will record as many votes as you are
11 able to cast. It's the ERM software, when you go to
12 process that PCMCIA card, it doesn't accept anything
13 after 65,530 --

14 MR. BRIAN: So it's a mistake --

15 MR. SWARTZ: -- therefore --

16 MR. BRIAN: It's a mistake in the computer
17 system that the problem exists; is that correct, not
18 the cards?

19 MR. SWARTZ: Correct.

20 MR. BRIAN: All right. So when the cards
21 were read -- so the data is actually on the cards; is
22 that correct?

23 MR. SWARTZ: Correct.

24 MR. BRIAN: But we just don't have any
25 software that will read the data; is that correct?

1 MR. SWARTZ: That's correct, because of --

2 MR. BRIAN: Okay.

3 MR. SWARTZ: -- the stated limit.

4 MR. BRIAN: Because of the stated limit.

5 And the race that exceeded the 65,000 odd character or
6 vote total was a County Commissioner race; is that
7 correct?

8 MR. SWARTZ: That was my understanding, yes.

9 MR. BRIAN: So the vote totals were not
10 exceeded in the other races; is that correct?

11 MR. SWARTZ: That is my understanding
12 (inaudible).

13 MR. BRIAN: That's your understanding.
14 That's what Mr. Neesby -- you were here for
15 Mr. Neesby's testimony, were you not?

16 MR. SWARTZ: Yes, I was.

17 MR. BRIAN: Okay. And you heard what he
18 said, right?

19 MR. SWARTZ: Yep.

20 MR. BRIAN: So what I heard Mr. Neesby say
21 was that the vote totals were not -- I'm just trying
22 to understand the technical side of this.

23 So all the data that we need is on the
24 cards, or ought to be on the cards, putting aside
25 Precinct 29, and the only problem is is that we don't

1 seem to have a computer that will read the cards for
2 that six -- that go beyond 65,000 on any given race;
3 is that correct?

4 MR. SWARTZ: Correct.

5 MR. BRIAN: But the data is readable for --
6 or it sounds like it was readable for all the other
7 races, is that correct, but it could not be aggregated
8 because --

9 MR. SWARTZ: Right. It's (inaudible).

10 MR. BRIAN: -- those five races block the
11 aggregation; is that --

12 MR. SWARTZ: Exactly.

13 MR. BRIAN: -- is that accurate?

14 MR. SWARTZ: Exactly. Yep.

15 MR. BRIAN: All right. All right. I
16 understand now.

17 The other question I want to ask you, and
18 this is a very important question, the tapes -- and I
19 want to make sure that everybody understands this.

20 When you close the polls and the tape is
21 created, is that information downloaded simultaneously
22 to two different data media at that point, one to a
23 card and to the tape, or does the tape in some way
24 depend upon the card?

25 MR. SWARTZ: It's first written to the card

1 and then the tape is printed.

2 MR. BRIAN: Okay. So is the tape a printout
3 of the card or is the tape the printout of the
4 tabulator?

5 MR. SWARTZ: Of the tabulator.

6 MR. BRIAN: All right. So they're separate
7 functions; is that correct?

8 MR. SWARTZ: It is a separate function.

9 MR. BRIAN: So we could have no card in it
10 at all and we could still have the tape work; is that
11 correct?

12 MR. SWARTZ: I don't think I've ever tested
13 it.

14 MR. BRIAN: Okay.

15 MR. SWARTZ: (Inaudible) sure.

16 MR. BRIAN: All right. If we had a card
17 that failed utterly for some reason, would it affect
18 the tape?

19 MR. SWARTZ: The tape would not be printed
20 is my understanding.

21 MR. BRIAN: All right. So if the tape
22 printed then the card was functioning; is that
23 correct?

24 MR. SWARTZ: If the tape printed, the card
25 was functioning? That is correct.

1 MR. BRIAN: That's what I asked, yes.

2 MR. SWARTZ: Yep.

3 MR. BRIAN: All right. If there is a
4 corruption on the card, would it affect the accuracy
5 of the tape? Is there any way that the numbers on the
6 card and the tape could be different?

7 MR. SWARTZ: No, not at all.

8 MR. BRIAN: Okay. In your professional
9 opinion, based on your understanding of the way that
10 the technology operates, is it reasonable for the
11 Durham County Board of Elections and the State Board
12 of Elections to rely upon the data that is contained
13 on the tape?

14 MR. SWARTZ: Yes, they should rely on the
15 tape.

16 MR. BRIAN: Even though the cards didn't
17 read into the Unity system; is that correct?

18 MR. SWARTZ: Correct.

19 MR. BRIAN: All right.

20 Any other questions for this witness from
21 the board?

22 MS. BRAXTON: No, not at this time.

23 MR. BRIAN: Not at this time. All right.

24 Thank you.

25 Mr. Stark.

1 MR. STARK: Thank you, Mr. Chairman.

2 E X A M I N A T I O N

3 BY MR. STARK:

4 Q. So I don't believe you answered the question
5 the chairman asked about if there was corruption of
6 the card, what would you see on the tape?

7 A. My understanding is you would see nothing on
8 the tape. That tape would not be printed.

9 Q. And so I believe you testified that there is
10 not a difference between the card and the tape.

11 A. Correct.

12 Q. So that essentially the PCMCIA card serves
13 as the memory for the tabulator; correct?

14 A. Well, there is internal memory on the M100
15 as people are casting their votes, and then at polls
16 close that is then aggregated and written to the card,
17 and then the tape is printed.

18 Q. In terms of that tabulation, how is it
19 aggregated? What do you mean by that?

20 A. The cast vote records. So each ballot has a
21 cast vote record. Those cast vote records then are
22 accumulated at polls close.

23 Q. So the tabulator records each vote and then
24 doesn't do any adding until the poll is closed; is
25 that correct?

1 A. At polls close.

2 Q. And then that information is dropped down to
3 the PCMCIA card --

4 A. Exactly.

5 Q. -- and prints over to the tape.

6 A. Correct.

7 Q. So if there is a problem with a PCMCIA card,
8 then there is a problem with the tape, right, or it
9 doesn't print?

10 A. It shouldn't print, exactly.

11 MR. STARK: All right. Thank you.

12 MR. BRIAN: Any questions for this witness
13 from the democratic party?

14 MR. HAMILTON: No questions for (inaudible).

15 MR. BRIAN: I have one other question. I
16 really do want to understand the technology here,
17 because it's of crucial importance.

18 E X A M I N A T I O N

19 BY THE BOARD:

20 MR. BRIAN: Mr. Stark asked you a question
21 in which -- asked you a question, the effect of which
22 was if it were -- made it sound as though the data
23 runs through the PCMCIA card to the tape, as opposed
24 to running on two different tracks; and I was under
25 the impression that it ran on two different tracks.

1 Can you explain that?

2 MR. SWARTZ: I really can't at this time. I
3 don't have M100 experience to necessarily know that, I
4 guess.

5 MR. BRIAN: Okay. So you don't know --

6 MR. SWARTZ: It is my understanding though
7 that the DRAM, which is the memory of the M100, once
8 that polls close, then the aggregation occurs, it's
9 dropped to the card, and then the tape is printed.

10 MR. BRIAN: And the tape is printed from
11 what source? What is the data that goes on the tape?

12 MR. SWARTZ: That is something I'd have to
13 look or seek guidance from someone.

14 MR. BRIAN: Would you like to see the
15 manual?

16 MR. SWARTZ: No. I don't (inaudible). The
17 manual is not going to help me in this situation.

18 MR. BRIAN: The manual is attached to
19 Mr. Stark's -- 130 pages is attached to Mr. Stark's --
20 okay. So you don't know for sure?

21 MR. SWARTZ: For sure, no.

22 MR. BRIAN: Okay. Do you think you could
23 find out?

24 MR. SWARTZ: I'm sure I could, yes.

25 MR. BRIAN: Like on the phone while we're in

1 this hearing?

2 MR. SWARTZ: Yes.

3 MR. BRIAN: Why don't you do that.

4 MR. SWARTZ: Okay.

5 MR. BRIAN: Any other questions at this
6 time?

7 Hearing none, thank you very much.

8 Ma'am, do you want to testify?

9 MS. ROGERS: I don't really have -- we'll
10 get the answer to that question. We'll call one of
11 the engineers at the company and (inaudible).

12 MR. BRIAN: Okay. So there is nobody else
13 from ES&S to testify at this time?

14 MS. ROGERS: I don't have anything more to
15 add than what he said.

16 MR. BRIAN: Okay.

17 MS. ROGERS: Unless you have questions.

18 MR. BRIAN: With regard -- that's fine.
19 That's fine.

20 With regard to Exhibit No. 3, the press
21 release, we've got copies of it, we've provided it to
22 Mr. Stark and everybody else.

23 This document, did you all get a copy of it?
24 You all got a copy of it, did you not?

25 This document basically stands as the

1 official statement of the county and the County Board
2 of Elections as to what happened on election night. I
3 think we will admit it and take judicial notice of it.

4 And we don't go into any -- and this
5 statement goes into no description of any of the
6 technical issues that we're dealing with in this
7 hearing. But it's a background piece that we're going
8 to enter into the record so that any judge, or
9 somebody else down the way who looks at this record,
10 will be able to figure out exactly how it is we got
11 from point A to point B to where we started this
12 hearing.

13 So without objection, I'm entering that into
14 the record.

15 MR. STARK: We would object to the inclusion
16 of statements about the process that are conclusory in
17 nature, and in terms of the accuracy or fairness of
18 the process.

19 MR. BRIAN: The statements that you're
20 talking about are where?

21 MR. STARK: Well, I haven't had a chance to
22 read the whole press release, but it appears --

23 MR. BRIAN: Well, the press release says on
24 the second to last page, "The Durham County Board of
25 Elections acted in accordance with all applicable

1 state and federal law in the course of this process.
2 It has maintained continuous communication with the
3 staff of the North Carolina State Board of Elections
4 throughout this process, and has done its best to make
5 this process transparent so that the citizens of
6 Durham and the state of North Carolina can have
7 confidence that the 2016 election...process in Durham
8 County was fair, impartial and bi-partisan. The
9 Durham County Board of Elections welcomes any
10 questions and comments as it moves forward with its
11 canvassing process." And then it invites the media.

12 Are you objecting to that paragraph?

13 MR. STARK: That's correct. And any other
14 statements of that type.

15 MR. BRIAN: I'm not aware that there are any
16 statements of that type otherwise in this document.

17 I don't feel like we've commented in that
18 statement on --

19 MS. BRAXTON: We don't.

20 MR. BRIAN: -- the propriety of anything, we
21 just said we did our best.

22 MS. BRAXTON: Correct.

23 MR. BRIAN: So I'll overrule the objection,
24 but it's noted for the record.

25 All right. I believe we've got -- we've had

1 the ES&S people testify, and he's gone off to figure
2 out the question. We'll bring him back later.

3 We've had Mr. Neesby testify.

4 And so now, Mr. Stark, it's time to bring
5 you forward and let you -- for you to come forward and
6 you can put on your evidence as you see fit, sir.

7 MR. STARK: We'd like to call Ms. Kate
8 Cosner.

9 MR. BRIAN: Okay. Ms. Cosner. Ms. Cosner
10 has been sworn. She didn't sign my sheet, but she's
11 been sworn.

12 KATE COSNER, witness herein, having been
13 previously sworn on oath,
14 testified as follows:

15 E X A M I N A T I O N

16 BY MR. STARK:

17 Q. Good morning, Ms. Cosner.

18 A. Good morning.

19 Q. Would you explain to us how the machines are
20 used in the early voting sites?

21 A. The M100 machines are used in the early
22 voting sites to collect the ballots that are voted by
23 the people who come to the sites. They are used to
24 have ballots fed into those tabulators and collected.

25 Q. And how many different -- you don't have

1 judges at these site, like we do on election day, you
2 call the person in charge a site supervisor; is that
3 right?

4 A. That's correct.

5 Q. And you don't have bipartisan judges
6 selected in accordance with the statute for election
7 day; is that correct?

8 A. While we attempt to have bipartisan
9 selection, it is not required at this time.

10 Q. I'm sorry?

11 A. While we attempt to have bipartisan coverage
12 in all of our early voting sites, by statute it is not
13 required at this time.

14 Q. Were you aware of the limitation of 65,535
15 votes --

16 A. No, sir.

17 Q. -- on these machines?

18 And is it my understanding that the machines
19 are not closed during the entire early voting period?

20 A. That's correct.

21 Q. Are the machines left running?

22 A. No, sir. At the end of the night, when the
23 voting has closed for the night, the machines are
24 turned off, the site supervisor locks the machines in
25 the room, in a secured room that only they have a key

1 to. They remove the key from the tabulator, leave the
2 tape intact, and it's not turned on again until the
3 next morning.

4 Q. And at this point the tape doesn't have any
5 data on it; correct?

6 A. That's correct.

7 Q. So the data is printed on the tape at the
8 end after you download the data to the PCMCIA card,
9 and then you run the tape in the normal closeout
10 procedure; correct?

11 A. That's correct.

12 Q. Now, do you use the same site supervisor
13 during the entire voting period?

14 A. We do have a site supervisor assigned to
15 each site during the entire period. We do have
16 shifts, so there may come a time where the site
17 supervisor may open, but an assistant site supervisor
18 may close.

19 Q. And when the tape is verified at the end,
20 who is signing off to verify that tape?

21 A. At the end of the early voting period, those
22 are absentee votes, so those votes are verified by the
23 Board of Elections.

24 Q. No, I'm talking about the tape that is on
25 the tabulator when you close it out at the end of

1 early voting.

2 A. It's not closed out until election day.

3 Q. I see. And where is the machine between the
4 last day of early voting and election day?

5 A. At the end of early voting the site
6 supervisor brings the tabulator back to the Board of
7 Elections' office, the tabulator is sealed in a case
8 with the tape attached, and the card still sealed
9 inside, and it's sealed in a secured room within the
10 Board of Elections.

11 Q. Is the tabulator plugged in during this
12 period, or is it just sitting there in the box?

13 A. It's just sitting in the box.

14 Q. So the chief judge then picks it up on
15 election day for the same polling place and takes the
16 tabulator back; is that correct?

17 A. No. These are -- these are different
18 tabulators.

19 Q. All right. And so they're just retained
20 there at the Board of Elections until when?

21 A. Until the board meets on election night to
22 count absentee ballots.

23 Q. And who then closes the machine out and
24 allows the data to come down and prints out the tape?

25 A. We have staff that will bring the tabulators

1 into the boardroom, and in the presence of the board
2 will plug up the tabulators, and run the tapes, close
3 the polls, run the tapes, and bring the tapes to the
4 board.

5 Q. And who then verifies the results?

6 A. The board members.

7 Q. So not anyone that has -- well, let's say it
8 this way.

9 Unlike a regular polling day, you don't have
10 a group of three judges that are there in attendance
11 with the polling machine, with the tabulator, the
12 entire day, who then sign off on it at the end of the
13 day; correct?

14 A. While we don't have --

15 MR. BRIAN: That's a yes or no question.

16 A. Yes, that's correct.

17 Q. (By Mr. Stark) Now, I believe I asked you a
18 moment ago if you were aware of the 65,535 limit on the
19 machine, and you said you were not; is that right?

20 A. I was not aware of it until Mr. Neesby told
21 me.

22 Q. So do you recognize then that using this
23 tabulator in an early voting site is destined to have
24 errors because it can't hold the total number of
25 votes; is that right?

1 A. I really don't think that's a point that I
2 can make. I believe that's a point that needs to come
3 from ES&S.

4 Q. Has anyone in your agency looked at the
5 actual ballots cast versus the audit tape that you
6 have, to determine whether the totals are accurate in
7 any of these machines that are in question?

8 A. Yes, sir. We have what's called a sample
9 audit count that's required by statute.

10 Q. And tell me about that. Where was that
11 done?

12 A. It was done at the Board of Elections'
13 office.

14 Q. And which machine was sampled?

15 A. Under, I believe under 163-131.1 it's a
16 random selection of precincts. So it's not -- it's
17 not -- we don't know what those precincts are until
18 after the election. And neither one of -- neither one
19 of these six sites were selected.

20 Q. That was my question, whether any of these
21 sites were involved. Thank you.

22 MR. STARK: Thank you. That's the questions
23 I have.

24 MR. BRIAN: Questions for Ms. Cosner?

25 MR. HAMILTON: No questions.

1 MR. BRIAN: All right. You're excused,
2 Ms. Cosner.

3 Next witness.

4 MR. STARK: Call John Posthill.

5 JOHN POSTHILL, witness herein, having been
6 previously sworn on oath,
7 testified as follows:

8 E X A M I N A T I O N

9 BY MR. STARK:

10 Q. Mr. Posthill, will you state your full name.

11 A. John Brookfield Posthill.

12 Q. And you're a registered voter here in Durham
13 County?

14 A. I am indeed.

15 Q. Were you present in the offices of the Board
16 of Elections on election night?

17 A. Yes, I was.

18 Q. And did you observe the handling of the
19 PCMCIA cards?

20 A. Some of it. Certainly not with regards to
21 their removal from the tabulator, but I did see some
22 of them there, yes.

23 Q. And what was happening with those cards when
24 you saw them?

25 A. The best of my recollection and notes, there

1 was an initial pile of, I don't know the exact number,
2 maybe my best guess was 15 to 20 of them, and they
3 were brought in by an individual, who I can't recall.
4 And then another one later was brought in by another
5 individual, and either handed to Kate or put in that
6 pile, I don't recall.

7 But at some point Kate -- when I say "Kate,"
8 I mean Kate Cosner, of course -- began to load those
9 particular PCMCIA cards into the machine to read them.

10 Q. And did you -- were you there when an error
11 was discovered?

12 A. Yes, I was.

13 Q. Did you hear any conversations among the
14 board and the staff concerning those -- that error?

15 A. Yes, I did.

16 Q. What did you hear said about the error?

17 A. Well, I'm not sure I can speak specifically
18 to that, but I did see Ms. Cosner on the phone trying
19 to resolve what, from her perspective was a technical
20 difficult. I did not appreciate the nature of it;
21 there was a problem, and I just witnessed her dealing
22 with an issue. That was part of what I saw.

23 And of course this became then a discussion
24 as the evening went on and the early vote -- the full
25 aggregate of the early votes were not available and so

1 on.

2 There was a board meeting that was convened
3 and there was discussion on some decisions made, et
4 cetera.

5 I can go into more details as to what I saw,
6 but some of that will be on the record and the board
7 will know, of course.

8 Q. And did you hear a discussion about
9 maintaining the chain of custody of those cards or --

10 A. Yeah.

11 Q. -- concerning the corruption of the cards?

12 A. Yes. Later in the evening, about 11:00,
13 again, from my memory, I'd have to check my notes to
14 be sure, about 11:20, 11:30 in the evening, a lawyer,
15 I completely forget his name, Michael -- you can help
16 me out -- but he basically did ask, it seemed -- I
17 don't remember exactly whether it was Ms. Cosner or
18 the board or both together, asked them to maintain or
19 to establish the chain of custody, and there was a
20 nod, sort of an agreement to that. And I do recall
21 that.

22 Q. And did you hear any discussions by either
23 the board or Ms. Cosner concerning the problems with
24 the discs? And how was that referred to, if you did?

25 A. Run that by me again.

1 There was problems reading the five discs,
2 or we thought it was a reading problem. We've heard
3 more today that the cards were indeed read and there
4 was more of an aggregation problem, has been the
5 stipulation. But yeah, that discussion was certainly
6 foremost on everybody's mind, you know, talked about
7 there.

8 Q. How were the cards being handled that night?
9 I mean what did people do with those cards?

10 A. Well, I'm not sure I can say. I mean it was
11 just part of the scene there. I've never been in the
12 Durham County Board of Elections, nor had I ever seen
13 that process in my life.

14 I do recall a pile of cards, you know, on a
15 desk or a table very near to the machine, that they
16 were eventually, you know, going to be loaded onto and
17 read. And that's that. Plus one other later
18 individual card showed up by a different person. So
19 I'm not sure I can speak more to it than that. It's
20 very vague. But that's what I saw.

21 Q. Did you hear an employee say something about
22 going to work for Cooper?

23 A. Well, I don't know if it was an employee,
24 but there was banter and so forth. And there was an
25 individual, who I don't know, and I don't know their

1 name, and --

2 (Audience laughter.)

3 A. -- blonde hair, you know. I thought she was
4 a board member, frankly, because she was sitting at
5 the table. And she just (inaudible) just -- from the
6 best of my memory said she had been speaking to Roy
7 Cooper earlier in the day, and then she said, I think
8 I'll got a job in Raleigh. And there was giggling on
9 the board. And somebody said, I hope so. So, you
10 know, that's what I saw. I don't know who that person
11 was though.

12 MR. BRIAN: Would you -- is that person
13 present here today?

14 MR. POSTHILL: I have no idea. But.

15 MR. BRIAN: Would somebody like to make an
16 objection on the grounds of hearsay?

17 (Audience clapping and cheering.)

18 MR. HAMILTON: (Inaudible) object on the,
19 let me think, on the grounds of hearsay, and I'd ask
20 the testimony be stricken from the record.

21 MR. BRIAN: Mr. Stark, would you like to be
22 heard on this?

23 MR. STARK: I think it's an admission from
24 an employee, appears an employee of the board. So I
25 would say that it would be an exception to hearsay.

1 MR. BRIAN: Do you have any evidence that
2 this person was an employee of the board?

3 MR. STARK: I only have what Mr. Posthill
4 related, that the person was sitting at the table with
5 the board.

6 MR. BRIAN: I'm sorry. I'm sorry. I'm
7 going to sustain that objection on the grounds of
8 hearsay.

9 Mr. Posthill, if you could try -- if you
10 could try to direct Mr. Posthill in the direction that
11 takes him towards things that he actually can testify
12 to.

13 Q. (By Mr. Stark) Is there anything else that
14 you can testify to that you observed that night?

15 A. Probably. I was there from about 6:45 in
16 the evening to about 12:15 a.m., stepping out only
17 infrequently to go to the bathroom and grab a drink of
18 water and make a phone call or two.

19 But I'm not sure. If you've got specific
20 questions, I'll be glad to address them. Or if
21 anybody else wants to ask, I'm here.

22 MR. BRIAN: Okay. Any other questions,
23 Mr. Stark?

24 MR. STARK: I have no other questions.

25 MR. BRIAN: Thank you.

1 Any questions for Mr. Posthill?

2 (Clapping.)

3 MR. BRIAN: Again, please, let's try to keep
4 the public demonstrations down to a minimum. It's
5 hard enough to hear up here as it is.

6 E X A M I N A T I O N

7 BY MR. HAMILTON:

8 Q. Good afternoon, Mr. Posthill. We've spoken
9 before; haven't we, sir?

10 A. I'm not sure.

11 Q. You remember I called you on Wednesday
12 afternoon?

13 A. Oh, that was you, okay.

14 Q. That was me.

15 A. (Inaudible).

16 Q. You declined to talk with me; right?

17 A. Yes.

18 Q. Do you remember that?

19 How many times have you spoken with
20 Mr. Stark?

21 A. Lifetime? Lately?

22 Q. How about in the -- since the day of the
23 election.

24 A. I don't know.

25 Q. Have you --

1 A. Real simple number. Do you want me to make
2 a guess? Somewhere between, you know, five and 15
3 maybe times. Probably less than that. I'm not sure.

4 Q. Did you ever refuse to speak with him?

5 A. Did I ever refuse to speak with him? No.

6 Q. Did he approach you or did you approach him
7 about being a witness at this proceeding today?

8 A. I don't recall.

9 Q. Are you being --

10 (Audience noisy.)

11 Q. (By Mr. Hamilton) Are you being paid to
12 appear here, sir?

13 A. No.

14 Q. So how did you happen to be at the Durham
15 County Board of Elections on the evening of
16 November 8th?

17 A. I for the duration, or at least some
18 month -- starting some months ago, I volunteered for
19 the McCrory campaign.

20 Q. Okay.

21 (Audience noisy.)

22 A. And I was asked specifically by an employee,
23 an operative, so to speak, on the campaign to do a
24 variety of things on election day.

25 And one of those things was to appear at the

1 Durham County Board of Elections and to get early vote
2 totals, when they were supposed to be released at the
3 close of polling at 7:30 p.m. And so I saw what was
4 happening and I stayed.

5 Q. Okay. Fair --

6 A. So I became a witness, as it were.

7 Q. Fair enough. And there are bipartisan
8 witnesses there in the room; right? That's sort of
9 part --

10 A. Not for --

11 Q. -- of the process?

12 A. -- the duration. At one point I was the
13 only person, call me a witness, in the room. You
14 know, I -- the best I could tell, the only non-board
15 or non-staff Board of Elections staff person in the
16 room.

17 Q. You're not an expert on ballot tabulating
18 machines, I take it?

19 A. No, not at all.

20 Q. Not an expert in the software or
21 configuration --

22 A. Not at --

23 Q. -- of these --

24 A. -- all, no.

25 Q. -- machines?

1 You said you saw the PCMCIA cards; is that
2 right?

3 A. Yes.

4 Q. Since the date of the election, since that
5 night on November 8th, you haven't seen them since
6 that time; have you?

7 A. No, I have not. I mean I went on the web to
8 see if they looked kind of similar, pictures on the
9 web, but that's --

10 Q. But these cards, you haven't seen them, you
11 haven't examined them, you're not here to testify --

12 A. No.

13 Q. -- about what --

14 A. No.

15 Q. -- they contained.

16 A. No. I'm no expert. And I just saw them
17 piled on the desk or the table.

18 Q. Mr. Neesby testified a little earlier today.
19 Did you hear that testimony?

20 A. I did.

21 Q. Okay. And he said in his affidavit that he
22 reviewed the digital file reflecting the audit logs of
23 user inputs into Unity.

24 You haven't looked at that information, have
25 you, sir?

1 A. I've looked at his -- are you referring to
2 his appendix on his affidavit?

3 Q. No, I'm not.

4 I'm referring to the digital file reflecting
5 the audit logs of user inputs that's stored on --

6 A. If it's --

7 Q. -- the Unity system.

8 A. -- not a printout -- a digi -- have I looked
9 at a digital file? I don't think I've ever looked at
10 a digital file in my life.

11 Q. All right.

12 A. Maybe in college. But the answer is no.

13 Q. Okay. He also testified in his affidavit
14 that he reviewed a folder from Unity that contained
15 the binary file to which the PCMCIA card reads.

16 I take it you haven't looked at that either.

17 A. No.

18 Q. All right. Thank you.

19 You don't have, I take it -- and then I'll
20 change the subject here.

21 You don't have any knowledge of this memory
22 limitation in the Unity software that we've been
23 talking --

24 A. I'm hearing --

25 Q. -- about.

1 A. -- it just like anybody else. No, I have
2 no -- I had no pre-knowledge of even what a PCMCIA
3 card was.

4 Q. Were you there when the machine tapes were
5 printed from these five cards?

6 A. No. I did not see any of that transpire.

7 Q. Were you there when the numbers were read
8 aloud and typed into the machine?

9 A. I was there when that was happening. And I
10 didn't hear, and nor did I witness in detail that
11 process, but I did see the bipartisan entry of the
12 manual numbers into the system. I was in the room
13 when it happened.

14 Q. And when you say "bipartisan," there was one
15 democrat and one republican working cooperatively
16 together to try and accurately transcribe the numbers
17 from the tape into the machine; right?

18 A. It looked very reasonable to me.

19 Q. All right. Thank you.

20 (Audience clapping.)

21 Q. (By Mr. Hamilton) Ms. Cosner was in the room?

22 A. Yes.

23 Q. And the Chairman of Durham County Board of
24 Elections, Mr. Brian, he was there too?

25 A. He certainly was.

1 Q. Same Mr. Brian who is sitting right here?

2 A. Of course.

3 Q. Veronica Degraffenreid, was she there?

4 A. You'll have to point that individ -- I
5 don't -- you know, again, I walked into something I
6 didn't predict, so I didn't necessarily know
7 everybody. If that person wants to raise their hand,
8 I'll -- I can say yes or no to that.

9 Q. There was a staff member from the State
10 Board of Elections in the room; wasn't there?

11 A. Oh, I think I do remember her, Veronica. I
12 believe I do have her in my mind. I believe she was
13 wearing -- a black woman wearing a red dress. If
14 that's her, then that's her. Yeah, we're talking
15 about the same person.

16 Q. You were not in a position to review the
17 actual machine tapes themselves; you couldn't see the
18 numbers.

19 A. No, I didn't. Not at all.

20 Q. But the board and the bipartisan team, they
21 were in a position to actually read the numbers.

22 A. Yes.

23 MR. HAMILTON: I have no further questions.

24 Thank you, sir.

25 MR. BRIAN: Thank you.

1 Any other questions, Mr. Stark?

2 MR. STARK: Nothing further for this
3 witness.

4 MR. BRIAN: Thank you very much. You're
5 excused, sir.

6 MR. POSTHILL: Thank you.

7 MR. BRIAN: At this time I'm going to ask
8 Mr. Swartz to come back up. We're trying to get these
9 ES&S folks out. Understand that Ms. Rogers is about
10 to have a grandchild, so she wants to try to catch an
11 airplane.

12 BEN SWARTZ, witness herein, having been
13 previously sworn on oath,
14 testified as follows:

15 E X A M I N A T I O N

16 (Continued)

17 BY THE BOARD:

18 MR. BRIAN: Yes, Mr. Swartz. I believe we
19 had a question pending with regard to the way that the
20 system operates.

21 MR. SWARTZ: Yes. And in talking with the
22 engineer of the M100, he said that the tape is printed
23 from the actual PCMCIA card, the file -- the results
24 file that's residing on the -- on the card.

25 MR. BRIAN: So it runs through the card to

1 the tape.

2 MR. SWARTZ: Correct.

3 MR. BRIAN: Is that correct? All right.

4 Thank you.

5 Any questions for this witness before we
6 excuse him?

7 Is anybody going to have any questions for
8 ES&S?

9 MR. STARK: Just one minute, please.

10 MR. BRIAN: Okay.

11 MR. STARK: No, we have nothing further.

12 MR. BRIAN: Okay. So without objection, I'm
13 going to release the entirety of the --

14 MR. STARK: Wait.

15 MR. BRIAN: -- ES&S team.

16 MR. STARK: I'm sorry. If I could, just one
17 question occurred.

18 E X A M I N A T I O N

19 BY MR. STARK:

20 Q. With the PCMCIA card, is it possible to
21 manipulate it so that it gives an erroneous result?

22 There are some sites on the internet that
23 talk about how to program these cards.

24 Is it possible to corrupt one? And do you
25 have protocols to make sure that that's -- that the

1 cards are clean when they're put in the machine?

2 A. Yeah. I don't know exactly what election
3 sites you're referring to or whatever you're talking
4 about.

5 However, there are normal procedures, such
6 as a lot, location where the PCMCIA card is stored.
7 Everything is formatted prior to even opening the
8 polls, et cetera. So that is a clean card when it
9 enters the M100.

10 Q. Is there a procedure that you instruct your
11 clients to go through to make sure that, one, the card
12 is formatted, and two, to make sure that there is no
13 data on it?

14 A. Yes.

15 Q. And what is that procedure?

16 A. As part of the, I guess the L&A process or
17 the preelection process, what they do is they format
18 the card, by just doing a right click and it formats,
19 in Windows in my computer. And then they burn the
20 election definition to the card, and then that is
21 uploaded to the M100. Then they would go through and
22 verify their L&A test deck that they do, and then they
23 go on and do the (inaudible).

24 Q. I'm sorry, I didn't understand what you just
25 said.

1 A. So in general purpose or general procedures,
2 they burn the card with election definition on it.
3 That is then taken to the M100.

4 Q. So when you say "burn the card," you mean
5 reformat it and set it up for this particular
6 election.

7 A. This particular election. Exactly.

8 Q. And you define all the fields for the
9 candidates and so forth.

10 A. Exactly.

11 Then a zero tape is printed, so you know
12 that no votes are registered on that M100 or this
13 particular results file.

14 Q. And does the process totally reformat a card
15 and remove everything that's on it --

16 A. Yes.

17 Q. -- as part of the setup?

18 A. Yes.

19 Q. And that's the way your software works?

20 A. Correct.

21 Q. And the staff does that before the machines
22 go out?

23 A. Correct.

24 Q. And then they're inserted into the machine
25 and sealed?

1 A. Correct.

2 Q. Okay. And the second card slot that's
3 available, what is the purpose of that second card
4 slot?

5 A. The second card is more for hardware
6 failure. So if the top slot goes bad, then you can
7 use the second slot.

8 Q. Meaning that it's saving data from the
9 same -- from the same election on to two cards, or
10 it's just for use in case --

11 A. It's a fail-safe.

12 Q. So if the slot is not reading the cards
13 anymore, you have something else to use in that
14 machine, is --

15 A. Exactly. If there was a hardware failure of
16 some sort.

17 Q. So it doesn't perform any kind of function
18 of saving data during a particular election.

19 A. That's correct.

20 Q. It's not like a tandem computer or anything
21 like that.

22 A. Exactly.

23 Q. Okay.

24 MR. STARK: Thank you.

25 MR. BRIAN: All right. Without any

1 objection, I'm going to release the ES&S folks to go.
2 That means they won't be here to answer any more
3 questions. Are you all comfortable with that?

4 MR. HAMILTON: I'm comfortable with that,
5 your Honor. No objection.

6 MR. STARK: We're comfortable.

7 MR. BRIAN: Okay. Thank you. You all are
8 free.

9 Mr. Stark, call your next witness, please.

10 MR. STARK: I think our next witness stepped
11 out of the room -- no. Michael Gray.

12 MICHAEL GRAY, witness herein, having been
13 first duly sworn on oath,
14 was examined and testified
15 as follows:

16 E X A M I N A T I O N

17 BY MR. STARK:

18 Q. Mr. Gray, would you state your full name.

19 A. My name is Michael Hale Gray.

20 Q. And I believe you've worked as both an
21 election judge and as a site supervisor in Durham;
22 correct?

23 A. That's correct. I acted as a assistant
24 supervisor from October 18 of this year until
25 October 26. And then on the 26th I transferred to

1 become site supervisor at a second site. The first
2 site at the East Regional Library. The second site at
3 Durham Tech on Lawson Street. And then on Monday the
4 7th, I and my voting crew set up for election day at
5 Precinct 23, Old School Road.

6 Q. You have some familiarity with the tabulator
7 that's in use by the Durham County Board of Elections;
8 is that right?

9 A. I do as operating it on a day to day basis.

10 Q. And will you tell us how you set it up and
11 close it down?

12 A. Certainly. When we -- for early voting we
13 are given the tabulator by a staff member of the Board
14 of Elections. It shows up either two days or one day
15 before the early voting begins. We keep it in a
16 locked room until voting begins. And then on the
17 election day we take it out of its case, put it in,
18 set it up, and we turn the key, and we start voting.

19 Q. And then when you finish voting?

20 A. When we finish voting for early voting, we
21 were told for this election to bring it back in its
22 case, back to the Board of Elections, where I turned
23 it in to a staff member. And we were told not to run
24 the tape, in other words so we would not know the
25 results of the election until 7:30 on Tuesday, when

1 everybody else would learn about it also.

2 Q. Do you verify the number of voters that have
3 voted at the poll in any way and furnish that
4 information to the Board of Elections?

5 A. Verify the number of voters? We --

6 Q. Yes.

7 A. We ascertain that the number of voters on
8 the tabulator aggregated over the 17 days, or ten days
9 in some instances, equals the number of people who
10 have entered into the computer as having voted.

11 Q. Once you account for provisional ballots?

12 A. No, provisional ballots are a totally
13 separate system.

14 Q. Right.

15 A. They are in separate folders.

16 For those in the audience, a provisional
17 ballot is one that is done in a special way that we do
18 not have the person on the voting list, for whatever
19 reason. And the typical ballot is called a tabulator
20 ballot going into the tabulator, that everybody has
21 heard about by now.

22 Q. And do you reconcile the number of persons
23 you show as voting with the number that's on the
24 tabulator?

25 A. That's correct. In fact each day we have a

1 little form, a handmade form granted, that we write
2 the tabulator number at the end of that day, and then
3 we call in that number to a member of the Board of
4 Elections. And then the next morning people who were
5 not on the evening shift, for example beforehand,
6 usually come in and say, What did we do yesterday.
7 And they can check the form and also the tabulator
8 number, which when I turn the key in the morning,
9 reads always the exact same number that it was the
10 night before.

11 Q. And what -- were you able to pull a number
12 from the poll books of the number of people that had
13 checked in in the precinct? And do you furnish that
14 information?

15 A. What do you mean by "checked in"?

16 Q. People that appear to vote and presented
17 themselves, and were certified with an ATV to go vote.

18 A. Yes. Yeah. The ATVs, authorization to vote
19 forms, always must coincide with the number of people
20 who voted on that day. We are very specific about
21 that.

22 Q. What care do you take with the PCMCIA cards
23 in these machines?

24 A. We do not see the PCMCIA card at all. I
25 have seen actually the cards twice in my life, once --

1 actually only once in my life. About eight years ago
2 Michael Ash, a former director of the Board of --
3 Director of Elections, a neighbor of mine, I would
4 drop by to see him once every couple of months, and
5 this particular time he was working on certifying the
6 tabulators.

7 And people who remember Michael, as I do,
8 know that he was very open and transparent about the
9 voting process. He invited me back to see how the
10 tabulator was being certified. And actually he let
11 meet do it, and he of course assisted and made sure it
12 was done correctly.

13 And I happened to see inside the little flap
14 that there were spaces for two cards, but I did not
15 see the cards themselves. I don't think it was being
16 processed at that point.

17 Q. Did you discuss with him any issues with the
18 cards at that time?

19 A. No, not of the cards. Just of the over vote
20 and under vote. And he was testing to make sure that
21 the machine operated correctly in that way.

22 MR. BRIAN: Mr. Stark, first of all, what
23 they discussed five years ago is of minimal relevance
24 to this proceeding.

25 Second, it also is hearsay. And in fact

1 Mr. Ash has passed away.

2 So my main concern is the relevance of this
3 and where it's headed.

4 MR. STARK: I think I've finished this.

5 MR. BRIAN: Okay. Head on.

6 MR. STARK: Thank you.

7 MR. BRIAN: Head on.

8 MR. STARK: So we're through with this
9 witness.

10 MR. BRIAN: Oh, all right. Thank you.

11 Mr. Hamilton.

12 MR. HAMILTON: We have no questions.

13 MR. BRIAN: No questions for this witness.

14 All right, Mr. Gray, you're excused.

15 Call your next witness, Mr. Stark.

16 MR. STARK: Mr. Lloyd.

17 MR. BRIAN: Mr. Lloyd, have you signed my
18 sheet?

19 MR. LLOYD: I did.

20 MR. BRIAN: Oh, there he is. Thank you.

21 JOHN LLOYD, witness herein, having been
22 previously sworn on oath,
23 testified as follows:

24 E X A M I N A T I O N

25 BY MR. STARK:

1 Q. Mr. Lloyd, would you state your full name.

2 A. John Lloyd.

3 Q. And I believe you formerly served on the
4 City Council in Durham; is that right?

5 A. That's correct.

6 Q. Do you have the occasion in your work or
7 other affairs to be familiar with PCMCIA cards?

8 A. I do.

9 Q. And how are you familiar with those?

10 A. I work professionally doing IT work, and
11 having access to memory cards is just common with what
12 I do.

13 Q. And tell us about the stability of PCMCIA
14 cards and the security of the ability to put
15 information on them that would corrupt results.

16 A. One issue with these cards is just the age
17 of the technology. They've been around -- they were
18 common back when we were using Windows 95. And
19 they're similar to a thumb drive, however, they're
20 more like a calculator in the sense that if you turn
21 it off and turn it back on again the data is gone,
22 which is why the battery is important.

23 They're memory storing devices, that also
24 require the battery, it's like a watch battery that's
25 actually in the card, and removable and replaceable to

1 do it.

2 The other issue with it is that the security
3 of it is, like a memory card, it's fairly easily
4 accessible and it doesn't allow itself very well for
5 encryption.

6 Q. And so are you saying it's difficult to
7 maintain the security of these cards?

8 A. Correct. I mean information is not
9 cryptographically secured, in that the machine would
10 not recognize a different card up here than the one
11 that was originally used.

12 Q. And could a software or a virus be loaded
13 onto the card that would affect its output?

14 A. Yes. In fact when the machine is first
15 turned on, the first thing it does is the M100 checks
16 the card to see if it has a firmware update. And
17 there's a screen prompt at that point that -- one
18 screen prompt, and it will install whatever update is
19 on the card.

20 MR. BRIAN: Mr. Stark, do you have any
21 evidence that any of this happened?

22 MR. STARK: No, Mr. Chairman.

23 MR. LLOYD: In the name of open transparent
24 elections, my concern is that I don't have evidence
25 that it didn't happen.

1 (Audience noisy.)

2 MR. LLOYD: And the amount (inaudible).

3 MR. BRIAN: Mr. Lloyd, I'm not asking you a
4 question right now. I'll ask you a question in a
5 second. I'm asking Mr. Stark.

6 MR. STARK: No, we do not have evidence that
7 the cards have been affected.

8 MR. BRIAN: That's a --

9 MR. STARK: We haven't --

10 MR. BRIAN: -- yes or no --

11 MR. STARK: -- had the opportunity to
12 investigate the cards.

13 MR. BRIAN: Understand. That's a yes --
14 that's fine. I appreciate that. All right.

15 E X A M I N A T I O N

16 BY THE BOARD:

17 MR. BRIAN: Mr. Lloyd, do you want to finish
18 your comment?

19 MR. LLOYD: I just think that since there is
20 any question about this, and it's so easy -- I mean
21 thankfully we have paper ballot backups. But to me,
22 in the name of having accurate transparent verifiable
23 elections, we have the method to verify this. It's
24 very simple.

25 MR. BRIAN: Well, the --

1 MR. LLOYD: I don't expect the number to be
2 any different. I don't understand the objection to
3 doing it.

4 MR. BRIAN: Okay. Did you hear the
5 testimony of Mr. Neesby?

6 MR. LLOYD: Yes.

7 MR. BRIAN: Did you find any fault with
8 Mr. Neesby's testimony?

9 MR. LLOYD: I had a question for him, in
10 that there were discrepancies -- I did not hear that
11 all of these discrepancies were human errors in taking
12 the tape and entering it.

13 That was a question I would have liked to
14 have had for him.

15 MR. BRIAN: I thought I heard him say that,
16 but maybe I was wrong.

17 And did you hear Mr. Swartz's testimony?

18 MR. LLOYD: I did.

19 MR. BRIAN: Was his testimony accurate, as
20 far as you know?

21 MR. LLOYD: Yes.

22 MR. BRIAN: Okay. Thank you.

23 Mr. Hamilton.

24 MR. STARK: Actually I had one other
25 question.

1 MR. BRIAN: Well, let Mr. Hamilton ask his
2 and you can ask yours.

3 MR. STARK: That's fine.

4 E X A M I N A T I O N

5 BY MR. HAMILTON:

6 Q. Good afternoon, Mr. Lloyd. You haven't seen
7 the actual PCMCIA cards that were used in the general
8 election in 2016, this year; correct?

9 A. That's correct.

10 Q. You testified about stability and security
11 and the lack of --

12 A. (Inaudible) technology in general.

13 Q. So just in general.

14 And you don't have any evidence that
15 anything improper occurred with these cards.

16 A. I did not see anything.

17 Q. And you don't have any evidence that
18 anything improper happened with any other cards that
19 were used in Durham County in this election.

20 A. Right.

21 MR. HAMILTON: Thank you.

22 MR. BRIAN: Mr. Stark, you had another
23 question?

24 MR. STARK: Yes.

25 ///

1 EXAMINATION

2 BY MR. STARK:

3 Q. Mr. Lloyd, you haven't been allowed to
4 review any cards; have you?

5 A. Not at all, no.

6 MR. STARK: I apologize, I forgot my other
7 question, so I guess I won't ask it.

8 MR. BRIAN: Thank you.

9 MR. LLOYD: One concern is that the errors
10 that the cards generate is commonly referred to as a
11 buffer overflow, and that can cause a number of
12 different anomalies. We're assuming all of them were
13 (inaudible).

14 EXAMINATION

15 BY THE BOARD:

16 MR. BRIAN: I'm sorry, what?

17 MR. LLOYD: We're assuming all of the
18 anomalies of having a buffer overflow, a number that
19 (inaudible) are innocuous.

20 MR. BRIAN: Do you challenge --

21 MR. LLOYD: But I don't --

22 MR. BRIAN: -- the results on the tape?

23 MR. LLOYD: I don't know that that's been
24 investigated. I don't (inaudible).

25 MR. BRIAN: Do you challenge the results of

1 the tape?

2 MR. LLOYD: To the -- it's coming from the
3 same card, yeah. But that's been said this is coming
4 from the card. If the card is having a difficult
5 problem with math, then yes.

6 MR. BRIAN: All right. Anybody else have
7 any questions for Mr. Lloyd?

8 MR. STARK: Yes.

9 E X A M I N A T I O N

10 BY MR. STARK:

11 Q. Mr. Lloyd, to follow up on that. If, as was
12 testified to, the battery is failing or on the verge
13 of failing in a card -- I believe we heard earlier
14 that if the battery dies it will lose its data;
15 correct?

16 A. Correct. And the normal life expectancy of
17 those batteries is about 18 months. So they're not,
18 like smoke detectors, they're not five years. The
19 card, when it's not in a machine that's powered, is
20 actually draining the battery trying to store its --
21 hold its (inaudible).

22 Q. And so when the battery is low or it's in
23 the process of failing or very low output, can it
24 corrupt the data prior to complete failure?

25 A. Theoretically.

1 MR. BRIAN: Theoretically. All right.

2 Thank you, Mr. Stark.

3 MR. STARK: Thank you.

4 MR. LLOYD: It's more likely to come up as
5 empty.

6 MR. STARK: I'm sorry?

7 MR. LLOYD: It's probably more likely to
8 come up as empty. But there is a fine point in
9 between the two where the batteries are temperature
10 sensitive, so it could be weak and then warm up enough
11 to be powered enough to actually operate again for a
12 little while.

13 MR. BRIAN: Thank you, Mr. Lloyd.

14 MR. STARK: Thank you.

15 MR. BRIAN: Anybody else have any questions
16 for Mr. Lloyd?

17 Hearing none, thank you, Mr. Lloyd. You're
18 excused.

19 Mr. Stark, do you any other witnesses?

20 MR. STARK: We do not.

21 MR. BRIAN: No other witnesses?

22 MR. STARK: No other witnesses.

23 MR. BRIAN: Okay.

24 Mr. Hamilton, do you have any witnesses?

25 MR. HAMILTON: We do not, your Honor.

1 MR. BRIAN: Okay. Is there anybody else who
2 would like to present evidence to this board?

3 Hearing none.

4 MS. WAGSTAFF: We signed up.

5 MR. BRIAN: You signed up, but you're not
6 standing up.

7 MS. WAGSTAFF: Oh.

8 MR. BRIAN: Come on up, ma'am, if you have
9 actual evidence to present. This is not an
10 opportunity to make a political speech.

11 MS. WAGSTAFF: It ain't political.

12 Should I tell you who I am and --

13 MR. BRIAN: Yes. Please introduce yourself
14 for the record and then confirm that you've been
15 sworn.

16 MS. WAGSTAFF: I'm Jacqueline Wagstaff. I'm
17 not a professional protester. I am a professional
18 campaign worker at the polls. So I definitely want to
19 talk about what I witnessed, not what I heard.

20 MR. BRIAN: Okay.

21 MS. WAGSTAFF: I stood at the polls for 17
22 days, as you know, Mr. Brian, and in those 17 days
23 there were multiple things that were going on.

24 I maintained the 50-foot line from the door
25 to the campaigning area. And on several occasions I

1 got with Ms. Cosner about employee behavior that was
2 causing disenfranchisement of voters.

3 And that's what I saw, along with colleagues
4 that were working with me, disenfranchisement that
5 were going on. Voters were being turned away, were
6 asked for ID. Conversations were being had by
7 employees of this board. And they were doing
8 curbside. And they were having multiple
9 inappropriate, you know, conversations.

10 MR. BRIAN: If you'd like to file an
11 objection of your own, you're welcome to do so.

12 The question is do you have --

13 MS. WAGSTAFF: I filed (inaudible).

14 MR. BRIAN: -- any -- do you have any
15 evidence to present either in support or against the
16 petition that's before us today filed by Mr. Stark?

17 MS. WAGSTAFF: The evidence that I've seen
18 on the day of election, I don't know if this was -- it
19 was against what he's saying. The evidence I saw was
20 voters being turned away from polling sites and told
21 that they could not vote. And were asked to come with
22 ID and different things like that. I witnessed this,
23 because I turned a lot of voters around and told them
24 to go back in the site and vote.

25 So whereas he's saying that there were, I

1 guess, tampering going on with the ballot, it looked
2 more like voter suppression. It didn't look like --

3 (Audience noisy.)

4 MS. WAGSTAFF: This is what I witnessed at
5 the polls. This was not what I heard, this is what I
6 actually saw.

7 MR. BRIAN: All right.

8 UNKNOWN SPEAKER: This is the real issue.

9 MS. WAGSTAFF: Right.

10 MR. BRIAN: Does anybody else have any --
11 does anybody have any questions for Ms. Wagstaff?

12 Mr. Stark?

13 MR. STARK: No.

14 MR. BRIAN: Sir? No.

15 Thank you very much.

16 Ma'am, do you have something else you'd like
17 to add?

18 MS. JACKSON: Hello. My name is (inaudible)
19 Jackson. I'm a Durham resident.

20 And so the first bit of evidence I have is
21 Exhibit A, racist and illegal gerrymandering.

22 In August of this year the federal courts
23 found that the voting districts designed --

24 MR. STARK: Objection.

25 MS. JACKSON: -- by the North Carolina --

1 MR. STARK: I think this is outside of
2 the --

3 MS. JACKSON: -- GOP were built around the
4 policy of racial discrimination. The courts --

5 MR. BRIAN: Ms. Jackson.

6 MS. JACKSON: -- ruled that --

7 MR. BRIAN: Ms. Jackson.

8 MS. JACKSON: Yes.

9 MR. BRIAN: Is this relevant to Mr. Stark's
10 protest?

11 (Audience noisy.)

12 MS. JACKSON: Can I finish?

13 MR. BRIAN: No, I'm just --

14 MS. JACKSON: I'm going to finish.

15 MR. BRIAN: We've got to steer clear of --

16 (Audience noisy.)

17 MR. BRIAN: -- politicizing. I'm asking
18 you, please, to stick --

19 MS. JACKSON: Okay.

20 MR. BRIAN: -- close to the issues relating
21 to the cards that Mr. Stark has raised. All right.
22 Thank you.

23 MS. JACKSON: Okay.

24 End quote. The overriding priority of the
25 redistricting plan was to draw a predetermined race

1 based number of districts.

2 Exhibit B. Racist and vengeful acts,
3 attacks on voting by republican boards of elections.
4 After having both their racist district maps and their
5 racist voter suppression laws exposed in federal
6 court, this party continued its illegal and racist
7 strategy. Dallas Woodhouse, executive director of the
8 North Carolina GOP, wrote an email to republican
9 boards of elections -- (inaudible).

10 MR. STARK: We'll object again,
11 Mr. Chairman.

12 MS. JACKSON: -- to limit --

13 MR. STARK: This is --

14 MS. JACKSON: -- early voting and Sunday --
15 and Sunday voting.

16 MR. STARK: Doesn't address anything in the
17 petition.

18 MR. BRIAN: I'm inclined to sustain the
19 objection. Can you get to the point where -- the part
20 where (inaudible).

21 MS. JACKSON: Well, the point is that Durham
22 Board of Elections needs to continue -- that we're
23 watching you, and you need to continue and do better
24 at defending Durham votes and defending black votes.
25 That's the point.

1 MR. BRIAN: Is that it?

2 (Audience clapping.)

3 MR. BRIAN: All right. Thank you.

4 Do you have a question (inaudible)?

5 Does anybody else have any evidence that's
6 directly relevant to the matter before us today?

7 MS. JACKSON: It is relevant.

8 MR. BRIAN: Yes, ma'am. What is your name?

9 RICKI: Hi. My name is Ricki (inaudible).
10 I'm a Durham resident.

11 MR. BRIAN: You're not -- oh, here. There
12 you are. Yes, ma'am. What can I do for you?

13 RICKI: I'm a Durham resident. (Inaudible).

14 And I want to speak to something that I know
15 to be true personally, and that I think is very
16 relevant to this claim here.

17 What I have personally experienced in my
18 life, and here as other places I've lived, is that
19 those in power will fight very hard to (inaudible)
20 power that they have.

21 And what I have experienced personally, and
22 know to be true firsthand, is that growing up in a
23 multiracial family, when I went out with my sister,
24 who is black, we would go to a store. I was certainly
25 not looked at with suspicion, though my sister was.

1 We were there for the same purpose. And consistently
2 my sister would be followed by the store manager.

3 I know that when we went in to go buy pizza,
4 she would be --

5 MR. STARK: Mr. Chairman --

6 RICKI: -- (inaudible) with suspicion.

7 MR. BRIAN: -- we'll object to this
8 testimony, it's not relevant.

9 RICKI: I understand you don't feel it's
10 relevant, and let me explain why it is.

11 Because what's happening here -- what's
12 happening here is folks looking to waste previous
13 resources that are needed, that are needed in our
14 failing schools, that are needed by folks that are
15 living on the streets in Durham, that are needed by
16 women who are abused.

17 Do you know that we have consistently in
18 Durham County not enough beds for women and children
19 who are running from abusers.

20 MR. BRIAN: Ma'am, I believe everything that
21 you say, but I don't see how it's relevant to the case
22 before us.

23 Can you talk specifically about the cards
24 and Mr. Stark's allegations?

25 Do you have anything specific to that

1 question?

2 RICKI: The only thing I want to say
3 specifically about the cards, and you know similar
4 issue of a previous witness, this is general
5 information, not related to the specific cards,
6 although since there was extensive questioning with
7 the witness who had general information, I think it's
8 fair.

9 The point about a card not being encrypted
10 and that being insufficient is just false, because
11 what we are seeing a move to in the tech industry is
12 actually these manual locks. The one person having a
13 key and locking a box is much safer than having this
14 encryption war with folks who may be hacking into the
15 system.

16 And so an argument, based on just general
17 knowledge, that, you know, there is an issue with not
18 enough encryption, that's actually a trend that we're
19 moving towards in security. And I think that there
20 are other areas in the tech industry that are -- you
21 know, would love to have a system set up like this
22 where they could have a manual lock. (Inaudible).

23 MR. BRIAN: Do you have a background in the
24 tech industry?

25 RICKI: I did oversee tech at a facility up

1 in Connecticut, and so I worked with both kind of the
2 hardware and software side. We were doing different
3 work on different scales, but again, you know,
4 speaking to kind of a general IT background.

5 MR. BRIAN: You have a general IT
6 background, is that --

7 RICKI: I have a general IT background.

8 MR. BRIAN: All right. Thank you.

9 Anybody have any questions for this witness?

10 (Audience clapping.)

11 MR. BRIAN: Hearing none.

12 Anybody else wish to testify?

13 Hearing none, I'm inclined to close the
14 evidence. Does anybody have any objection to that?

15 MR. HAMILTON: No objection.

16 MR. STARK: No objection.

17 MR. BRIAN: Hearing none. All right.

18 We'll take closing arguments.

19 Mr. Stark, do you have any closing argument?

20 MR. STARK: Well, first we'll renew our
21 request for a discretionary recount on these
22 tabulators.

23 Really we -- I filed this petition because I
24 thought it was perfunctory and that the board would be
25 interested in doing a recount where there was any

1 discrepancy concerning these machines.

2 We have had evidence about the machines that
3 indicates that the audit tapes are based on what is in
4 the PCMCIA card.

5 We've heard evidence about the effect of the
6 limits on the system and its impact.

7 We have an affidavit that went through and
8 analyzed the two data streams and there are
9 discrepancies in those.

10 Every vote should count in an election and
11 the process should be clear and honest. And so we
12 have paper ballots for these machines; it's a simple
13 matter to count those.

14 And so my purpose in filing this protest was
15 to ask the board to count the ballots in the affected
16 machines.

17 There was a long delay on election night in
18 getting the data in. And the audit tapes are --
19 suffer the same limitation that the card does.

20 Once we became concerned about the cards, we
21 should move forward and find that it could -- this
22 race -- there are several races statewide that are
23 5,000 votes or less, and some additional ones a few
24 over.

25 So it seems appropriate where you have

1 94,000 votes involved, to go ahead and be sure that
2 you have a correct number. Because it involves so
3 many votes it can put a statewide race in doubt.

4 Now, there are other petitions that have
5 been filed that, collectively with what has happened
6 in other counties might affect it, but this one
7 involves enough votes that if there is a serious
8 anomaly it will -- there could easily be enough
9 ballots to make a difference in several of those
10 races.

11 So rather than wonder about it, it seems
12 appropriate to go ahead and count those votes.

13 The board is aware of the findings that the
14 statute provides for. There are really two ways to
15 go. One is to go ahead and do the recount (inaudible)
16 that it can place the election in doubt. The other is
17 to refer it up to the State Board.

18 The latter would be acceptable, but the
19 preferable one, we think -- this is a Durham issue.
20 We have an easy ability, probably with your high speed
21 counter you could check them in the time that we've
22 done this hearing. So it's appropriate to go on and
23 count these votes, and we'd ask the board to do so.

24 MR. BRIAN: Thank you very much.

25 Mr. Hamilton.

1 MR. HAMILTON: Chairman Brian and members of
2 the board, respectfully I would urge the board to
3 dismiss Mr. Stark's protest of the results or
4 tabulation of the 2016 general election for governor
5 of North Carolina.

6 The board has given Mr. Stark an opportunity
7 to come forward with competent evidence, rather than
8 empty accusations and speculation, to support his
9 allegations concerning the conduct of the election;
10 and by any measure he's failed to do so.

11 In fact the evidence presented shows that
12 the Durham County Board of Elections capably,
13 conscientiously, and transparently responded to
14 problems with a handful of PCMCIA cards in a manner
15 designed to ensure a proper count of the votes in
16 Durham County.

17 The analysis by Brian Neesby, the State
18 Board of Elections, confirms the accuracy of the
19 election day vote count for the gubernatorial
20 election.

21 Under North Carolina law a protest must be
22 dismissed unless there is substantial evidence of a
23 violation of election law, or other irregularity, or
24 misconduct sufficient to cast doubt on the results of
25 the election.

1 This is not a low bar, as we saw in the
2 initial step, this is -- this is the test. And here
3 there is no evidence, substantial or otherwise, of any
4 violation or irregularity or misconduct, and no
5 legitimate doubt has been cast on the results of this
6 gubernatorial election.

7 The remedy requested, moreover, a hand
8 recount of the ballots, is not permissible under North
9 Carolina law.

10 And so for both reasons the protest should
11 be dismissed.

12 I'd like to just elaborate a little bit on
13 each of them, and then I'll stop.

14 First and most fundamentally, the protest
15 must be dismissed because there is no evidence of any
16 violation of law, no misconduct.

17 The protest claims it was wholly
18 unreasonable for this board to rely on the results
19 contained on the internal memory built into the M100
20 ballot machines to produce a printout for the voting
21 results and then to transcribe those results.

22 But the protest fails to describe why that
23 was unreasonable. That in fact the process built in.
24 There is two ways to communicate the vote totals from
25 a tabulator machine to the ultimate total. You either

1 type them in by hand or you upload them to a card. If
2 you can't do one, then you have the other. That's the
3 whole design of the system.

4 And when confronted with a problem with
5 digitally transferring the information, this board did
6 exactly what it should do. It called the State Board
7 of Elections and asked for guidance. There was a
8 State Board of Elections representative in the room.
9 They contacted the vendor and asked for guidance. And
10 they did precisely what they were instructed to do
11 under the supervision of both a democrat and a
12 republican.

13 That is exactly the way you run an election.
14 That's exactly the way that we, as United States
15 citizens, solve problems by working together, not by
16 pointing fingers and casting doubt on our election
17 system. There is a real cost to doing that in
18 undermining the public confidence in the outcome of
19 the election.

20 The testimony that we've heard from the ES&S
21 representatives and from Ms. Cosner, the elections
22 director, confirms that the data was recorded by a
23 bipartisan team, that it was -- that a test was
24 printed out, test printout, and then the numbers were
25 verified. And that's exactly what they should have

1 done. The actions were not only reasonable, but they
2 were commendable. And it most assuredly did not
3 constitute a violation of law or an irregularity or
4 misconduct.

5 Second, the protest should be dismissed
6 because the protester's allegations don't cast doubt
7 on the results of the gubernatorial election.

8 There is, as, Chairman Brian, you pointed
9 out on Tuesday, the board has not been presented with
10 any evidence whatsoever that there is any inaccuracy
11 or any problems with any of the returns reported on
12 election day, and no reason to believe that any of the
13 returns came back on the paper tapes were in any way
14 inaccurate.

15 The protest speculates that there might be
16 two problems here. Number one, that the DRAM built
17 into the M100 machines could have been corrupted or
18 that a transcription error might have occurred.

19 But Mr. Neesby's analysis absolutely
20 destroys both prongs of that argument. First he
21 explained that the Board of Elections' inability to
22 upload the data from the PCMCIA cards on election day
23 wasn't due to corruption, it was due to a memory
24 limitation, just like the memory limitation on your
25 telephone to take pictures. You can only take so many

1 pictures. This technology has that limitation. It's
2 not -- it's not an error, it's just a limitation of
3 the software. And the software is quite obviously not
4 corrupted.

5 Kathy Rogers and Ben Swartz both confirmed
6 that.

7 Mr. Neesby did a results analysis, looking
8 at the data that was actually in the Unity system, and
9 then compared it to the reported results, and he has
10 that big table.

11 There were a couple of transcription errors,
12 and frankly, Mr. Chairman, it's not surprising that
13 late at night when you did the transcriptions that you
14 might have an error or two. But not one of them
15 involves the race in question here. Those numbers
16 matched precisely.

17 MR. BRIAN: Well, our eyes were bleary, our
18 fingers were tired.

19 MR. HAMILTON: And yet with bleary eyed and
20 tired fingers you managed to transcript to exact
21 precision the numbers in the gubernatorial race. So
22 there was no error there.

23 The only other question that's been called
24 into is Precinct 29, the sixth PCMCIA card. But as
25 Mr. Neesby pointed out, if there was an error with the

1 card the tape wouldn't have print. We just found out
2 from the ES&S guy that the tape gets printed through
3 the card. The card -- the tape was printed, and
4 therefore obviously there was no problem with the
5 card.

6 Last point. The County Board of Elections
7 does not have the authority to issue a hand recount of
8 these ballots.

9 And there's a -- and you know, I know that
10 Mr. Stark is disappointed with the outcome of this
11 election; there is a lot of us that are disappointed
12 with the outcome of some of these elections, but we
13 have a process that we follow, and it doesn't involve
14 just coming in and saying, I have a question and
15 therefore I want these ballots recounted now. Just
16 why don't we just do that because I'm disappointed and
17 I have a question. That's not enough. You have to
18 come forward with substantial evidence, and there
19 isn't any.

20 If the republican candidate for governor
21 wants to call for a recount and the initial canvass
22 puts them in the range to do that, he's entitled to do
23 that. But not at this stage of the process.

24 Respectfully this board has gone above and
25 beyond what was required by any reasonable

1 interpretation of the law to provide Mr. Stark with an
2 opportunity to present evidence to support his
3 protest. He's failed the task by any measure, and
4 he's certainly failed to present, as required,
5 substantial evidence of a violation of election law or
6 other irregularity.

7 Instead, the evidence before the board
8 conclusively demonstrates the County Board of
9 Elections' initial tally of the ballots was accurate,
10 and the protest accordingly should be dismissed.

11 MR. BRIAN: Thank you.

12 MR. STARK: Reply?

13 MR. BRIAN: Brief reply.

14 MR. STARK: I move to strike the memo
15 submitted by counsel as it purports to represent the
16 Attorney General, and as I understand it he appeared
17 here today on behalf of the democratic party and the
18 campaign.

19 So the Attorney General in an official
20 capacity is not apparently here.

21 The violation of the law is the failure to
22 give accurate totals. The irregularity is that the
23 cards read with an error. And we have discrepancies
24 in these two data streams, neither of which is
25 reliable.

1 The witnesses testified that the printer
2 reads off the card. The cards, again, show an error.

3 MR. BRIAN: With all due respect, Mr. Stark,
4 there was no evidence at all that the cards were in
5 any way corrupted or were in any way inaccurate.

6 The cards -- all the evidence that was
7 presented today was that the software failed to read
8 the five County Commissioner races, but otherwise
9 recorded the data from the cards into the Unity system
10 but did not aggregate that data.

11 MR. STARK: I heard that testimony,
12 Mr. Chairman, which is -- and I understand that the
13 Chairman's comments, the night that it occurred, were
14 maybe heard in light of some of the testimony we've
15 had. But the fact of the matter is still that you had
16 one card that died completely on 29, and you had
17 errors showing up, minor errors in the two data
18 streams.

19 And once again, it's a simple matter to run
20 those ballots and see what the count is. If these
21 machines can't do it, they can be done in smaller
22 batches in different machines in order to get us an
23 accurate count.

24 And we'd ask the board to do that in its
25 discretion. And we'd also ask the board, as a result

1 of the evidence presented, to run that count.

2 Thank you.

3 MR. BRIAN: Can you clarify your motion to
4 strike?

5 MR. STARK: Well, there was a memorandum
6 submitted and it was done on behalf of the Attorney
7 General. And that struck me as odd. But counsel,
8 when allowed to appear pro hac vice today, appeared on
9 behalf of the democratic party and the Cooper
10 campaign, not on behalf of the Attorney General, so
11 I'm not sure whose memo that is.

12 MR. BRIAN: Do you want to respond to that?

13 MR. HAMILTON: Sure. Mr. Chairman, I
14 represent Roy Cooper, he is a candidate; he is also
15 the Attorney General of the State of North Carolina.
16 I also represent the North Carolina Democratic Party.
17 I don't think there is anything --

18 MR. BRIAN: I'm going to deny the motion to
19 strike.

20 All right. So we've heard it all.

21 Is there anything, Ms. Inserra, is there
22 anything that you would like to weigh in on? I was
23 particularly curious about the public records request
24 for the tapes. And we've done certified copies of the
25 tapes.

1 MS. INSERRA: I have --

2 MR. BRIAN: Are they part of this record or
3 not?

4 MS. INSERRA: I have forwarded, during this
5 proceeding, it came to me this morning, and I have
6 forwarded them to both Mr. Stark and Mr. Hamilton.
7 Whether or not they've had access electronically, I
8 can't say, but they are, in fact copies of those tapes
9 are in their possession. We did them as quickly and
10 expeditiously as possible.

11 MR. BRIAN: And those are certified copies;
12 is that correct?

13 MS. INSERRA: Certified copies of the tapes.

14 MR. BRIAN: I'd like to go ahead and enter a
15 certified copy of the tapes as -- what's the next
16 exhibit, madam court reporter?

17 THE REPORTER: Four.

18 MR. BRIAN: -- as Exhibit 4, just so that
19 the record is complete.

20 MS. INSERRA: If I may just offer, just to
21 be helpful, if I may. Substantial evidence is such
22 relevant evidence as a reasonable mind might accept as
23 adequate to support a conclusion.

24 I know many of you are familiar with that,
25 but I thought perhaps repeating it -- (inaudible).

1 MR. BRIAN: Appreciate that.

2 MS. INSERRA: Thank you.

3 MR. BRIAN: All right. So it's now time for
4 the board to dispose of this case one way or the
5 other.

6 Would somebody like to -- do we have any
7 discussion we'd like to have? Do we need deliberation
8 on the evidence?

9 Hearing none. Can we get a motion to
10 dispose of this matter from the board, please?

11 Ms. Braxton.

12 MS. BRAXTON: Your Honor -- I almost called
13 you your Honor.

14 Mr. Chairman, I move that we dismiss this
15 petition pursuant to North Carolina General Statute
16 163-182.110(c), as there has not been any substantial
17 evidence of any violation, irregularity, or misconduct
18 sufficient to cast doubt on the results of the
19 election that happened on -- in 2016.

20 MR. BRIAN: Do we have a second for that
21 motion?

22 I'll second the motion.

23 (Audience clapping.)

24 MR. BRIAN: It's been moved -- it's been
25 moved and seconded that the petition should be

1 dismissed on grounds that it lacks substantial
2 evidence.

3 All in favor say "aye."

4 BOARD and AUDIENCE: Aye.

5 MR. BRIAN: All right. We're going to do
6 this again. I don't want anybody in the audience to
7 open their mouth, okay, because we need to have this
8 record clear.

9 It's been moved and seconded that the
10 petition be dismissed on grounds that it lacks
11 substantial evidence to support it.

12 All in favor say "aye."

13 BOARD: Aye.

14 MR. BRIAN: Opposed? Very good. It's
15 unanimous.

16 (Audience noisy.)

17 MR. BRIAN: The board is in recess.
18
19
20
21
22
23
24
25

C E R T I F I C A T E

STATE OF WASHINGTON)

) ss.

COUNTY OF KING)

I, the Licensed Court Reporter in the state of Washington, do hereby certify that:

I am not a relative or employee or counsel of any of the parties to said action, or a relative or employee of any such attorney or counsel, and that I am not financially interested in the said action or the outcome thereof;

The transcript attached hereto is a true transcription of audio recording of the proceedings to the best of my ability.

IN WITNESS WHEREOF, I have hereunto set my hand: November 28, 2016.

Brenda Steinman
CCR #2717
Certified Court Reporter
State of Washington

Original Protest .

ELECTION PROTEST

Use of this form is required by G.S. 163-182.9(c)

This form must be filed with the county board of elections within the timeframes set out in G.S. 163-182.9 (b)(4). Please print or type your answers. Feel free to use and attach additional sheets if needed to fully answer the questions below. You may also attach relevant exhibits and documents. Please number the pages of such additional sheets and attachments.

1. Full name and mailing address of person filing the protest.

Thomas Stark
Stark Law Group
6011 Farrington Road, Suite 300
Chapel Hill, NC 27517

- 2.

Business phone number: 919-490-5550
Fax number: 919-490-5551
Email address: Thomas@starklawgroup.com

3. Are you either a candidate or registered voter eligible to vote in the protested election?
If a candidate, for what office?

Registered voter.

4. List the date, location, and exact nature of the election protested. Name all candidates in the election and the number of votes each received. Note the winning candidate(s) elected or nominated.

Early voting and November 8, 2016, Durham County, General Election.

Candidates: All candidates and issues on the ballot indicated for that election. See reports by Durham County Board of Elections and NC Board of Elections for further information.

5. Does this protest involve an alleged error in vote count or tabulation? If so, please explain in detail.

Yes. The Durham County Board of Elections has engaged in malfeasance with regard to ensuring the accuracy of the tabulation of early votes cast in certain early voting and Election Day voting locations. At five early voting sites open for a 17-day period prior to the election, to include the East Regional Library, North Regional Library, South Regional Library, Eno River Unitarian, and the Board of Elections, along with an Election Day voting location Precinct 29, tabulation data appears to have been dramatically corrupted in a manner that may affect the outcome of a number of election contests held on the above date.

In these locations, the county relies on "M100" ballot machines to scan and save the results of each ballots cast. Each of the affected M100 ballot machines read ballots and then saves data from those ballots on a memory card, as well as internal memory (DRAM) built into the system. These two sets of data are recorded at the same time. *See* Attachment at 17. Typically, memory card data from these M100 machines is then fed into a central "Unity" system that tabulates the results from all precincts. However, at some point during the conduct of the election, these M100 machines suffered a critical error: the memory card holding the results of the balloting at each of these locations failed, and the Unity system could not read their contents. According to the M100 user manual, such an error may cause the system's own DRAM to be corrupt. *See, e.g.*, Attachment at 86.

Rather than take a logical step to ensure an accurate unofficial tabulation, the Durham County Board of Elections took the wholly unreasonable step of relying on the potentially-corrupted DRAM built into these otherwise

corrupted systems to produce a printed tape log of the results, *and then manually transcribed* each number recorded onto the system's DRAM into the Unity system. To make matters worse, it was a handful of hard-working yet exhausted Election Officials, some of whom were well into literally the 20th hour of their long Election Day jobs. This event took place at approximately 12:00am on Wednesday, November 9 when the polls had opened at 6:30am on Tuesday, November 8. This exhausted group of people manually entered hundreds of numbers into a computer whose results we are now relying on for the results of Durham County's General Election, in one of the closest elections in the history of North Carolina.

6. Does this protest involve an irregularity or misconduct not described in number 5 above? If so, please give a detailed description of such misconduct or irregularity and name those who committed such action.

No.

7. Please set out all election laws or regulations that you allege were violated in your responses to 5 or 6 above. State how each violation occurred. Please provide the names, addresses, and phone numbers of those who you allege committed such violations.

N.C. Gen. Stat. § 163-182.2(b)(2) (Requiring that accurate unofficial reporting of the results be provided from the precinct to the county board of elections on the night of the election).

Durham County Board of Elections website statement that it intends to: "Design and maintain open, honest, and accurate vote counting and reporting systems."

Simply stated, no citizen of the County or State can reasonably have confidence in the tabulation of the unofficial election night results based on the method used to tabulate ballots as used by the Durham County Board of Elections. Michael Perry, Director of the Durham County Board of Elections, violated the provisions described. He can be reached at 201 North Roxboro Street, Raleigh, NC, 919-560-0700, elections@dconc.gov.

8. Please provide the names, addresses, and phone numbers of any witnesses to any misconduct alleged by you in this protest, and specify what each witness listed saw or knows.

Witnesses to any misconduct, whether deliberate or inadvertent, may include all election day judges on site for the eighty-six days involved in the early voting and on the November 8, 2016 election day, and, specifically, involving the judges who ran the audit tapes for the six machines. Witnesses may also include any and all observers on site on election day or on the preceding early voting days, and may include any and all voters on site on election day or any and all voters participating in the early voting process. .

Witnesses John Posthill was present at one machine at the board and witnessed the input of data into the Unity system, though he may not have been close enough to actually see the tapes. His contact is: 919-923-5990 and posthillfamily@yahoo.com

9. What action do you desire the county board of elections to take in this matter?

The Durham County Board of Elections should not rely on the bleary eyes and tired hands of well-meaning Election Officials. Rather, it should take the obvious and necessary step of taking the paper ballots that were originally fed into the M100 machines with the corrupted data systems, and manually hand-count those ballots *prior to* any formal audit or canvass. These ballots have never been properly tabulated on any system free of corrupt data, and neither the Durham County Board nor the citizens of the County or the State of North Carolina can have any reasonable degree of confidence in the unofficial election results produced by the process undertaken to date.

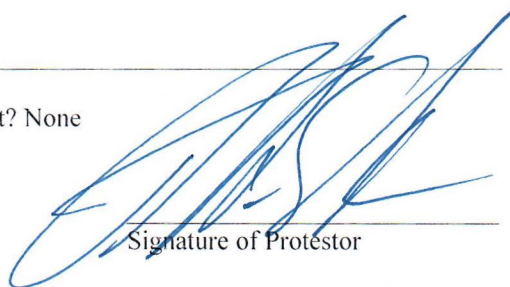
10. Do you contend the allegations set out by you are sufficient to have affected or cast doubt upon the results of the protested election? If your answer is yes, please state the factual basis for your opinion.

Yes. Approximately 90,000 ballots were tabulated using this wholly unreliable method. We have no way of knowing if the M100 machines' tape accurately reflected the votes cast, nor do we know if the individuals charged with manually inputting data from these machines accurately entered it the Unity system. Not only is the number of affected ballots larger than the margin in most of the Durham County elections, the North Carolina governor's race is currently within less than 5,000 votes. An accurate vote tally is therefore critically important and properly tabulating these ballots is necessary to achieve that outcome.

11. Have you read and reviewed the North Carolina law pertaining to election protests as set out in G.S. 163-182.9 through G.S. 163-182.14 and current North Carolina State Board of Elections regulations pertaining to election protests?

Yes.

12. How many pages of additional answer are attached to this protest? None
How many pages of attachments are attached? 138



Signature of Protestor

Date/Time Filed with County Board
November 11, 2016
(to be filled out by the county board)

Kate Cosner
Chief of Staff / Interim Director

NOTE: The county board must provide the State Board with a complete copy of a filed protest within one business day after it is filed. In addition, the county board shall provide a copy of the election audit with this copy of the protest.

Please direct any questions to your county board of elections or the North Carolina State Board of Elections, PO Box 27255, Raleigh, NC 27611-7255, (919) 733-7173.

ES&S Model 100 Precinct Ballot Counter Operator's Manual

Version 5.2

For use with

Unity 3.0

Election Systems and Software, Inc.

Corporate Headquarters

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<http://www.essvote.com>

ES&S Model 100 Precinct Ballot Counter Operator's Manual

Version Release 5.2

August 13, 2005

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5.2 3.0_1 8/13/2005 55 Re-aligned status report.

5.2 3.0_1 8/13/2005 55-64 Cleaned up tabs and made reports a smaller font.

5.2 3.0_1 8/13/2005 94 In item #3 under Ballot Diagnostics Menu heading changed Digital Table Menu to Digital Reports Menu.

5.2 3.0_1 8/13/2005 100 In paragraph under The Election Test

Menu last sentence changed Read Ballot

Menu to Test Option.

Our Mission

Our Mission is to support democracy worldwide by providing proven, accurate, and innovative election systems and services to voters and election officials.

Our Vision

Our Vision is to continuously improve and grow our integrated total election solutions that provide "Better Elections Every Day." We will accomplish this vision with an uncompromising commitment to customer satisfaction and integrity within the election process.

Who We Are

ES&S is a company of dedicated people building integrated systems and developing solutions for the election official's total management needs:

- Election and voter registration management software
- Ballot counting and tabulation hardware
- Election information management software

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Election Systems & Software does not extend any warranties by this document. All product information and material disclosure contained in this document is furnished subject to the terms and conditions of a purchase or lease agreement. The only warranties made by Election Systems & Software are contained in such agreements.

Users should ensure that the use of this equipment complies with all legal or other obligations of their governmental jurisdictions.

FCC Compliance:

This device complies with Part 15 of the FCC Rules. Operation is subject to the following two conditions: (1) This device may not cause harmful interference, and (2) this device must accept any interference received, including interference that may cause undesired operation.

This equipment has been tested and found to comply with the limits for a Class B digital device, pursuant to part 15 of the FCC rules. These limits are designed to provide reasonable protection against harmful interference in a residential installation. This equipment generates, uses and can radiate radio frequency energy and, if not installed and used in accordance with the instructions, may cause harmful interference to radio communications. However, there is no guarantee that interference will not occur in a particular installation. If this equipment does cause harmful interference to radio or television reception, which can be determined by turning the equipment off and on, the user is encouraged to try to correct the interference by one or more of the following measures:

- Reorient or relocate the receiving antenna.
- Increase the separation between the equipment and receiver.
- Connect the equipment into an outlet on a circuit different from that to which the receiver is connected.
- Consult the dealer or an experienced radio/TV technician for help.

The Model 100 Operator's Manual version 5.2 contains all of the information necessary to use any firmware version of the Model 100 5.2.X.X. Any changes to the tabulator's

firmware version number beyond one decimal place represents changes to that do not affect usability or system operation.

Model 100 is a registered trademark of Election Systems & Software Inc.

Disclaimer

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1

Chapter 1: Introduction

The Model 100 precinct ballot scanner is part of a jurisdiction-wide election tabulating system. Each scanner can process ballots for up to 10 precincts.

Voters make selections and then insert their ballots directly into the Model 100 at the polling place. The scanner tabulates votes and sorts a ballot as soon as a voter inserts it and then feeds the ballot into the attached ballot storage bin.

Election laws and procedures vary from state to state. Use the procedures in this manual combined with the election policies and guidelines for your jurisdictions to develop a comprehensive election strategy.

The *Model 100 Operator's Manual* contains the following sections:

- **Understanding Warning Symbols:** This section defines all of the warning symbols used in this manual used to indicate possible hazards when using the Model 100 scanner.

- **Understanding the Counter:** This section contains descriptions of ballot scanner functions, including diagrams and descriptions of the individual parts of the Model 100 and the control panel.
- **Performing Pre-Election Day Tasks:** This section contains a list of all necessary election supplies as well as instructions for assembling the ballot box and counter, preparing the counter for operation and testing the loading election definition.
- **Performing Election Day Tasks:** This section contains instructions for opening the polls, closing the polls and printing reports.
- **Performing Post-Election Day Tasks:** This section describes post-election tasks including shutting down and disassembling the counter.
- **Appendix A: Maintaining the Counter:** This section contains procedures for routine and preventative maintenance for the Model 100.
- **Appendix B: Understanding the Reports:** Appendix B contains descriptions and samples of each report generated by the Model 100.
- **Appendix C: Understanding System Messages:** Appendix C contains descriptions of all system messages and instructions for correcting errors.
- **Appendix D: Understanding System Menus:** Appendix D contains descriptions of Model 100 system menus.
- **Appendix E: Troubleshooting:** Appendix E contains troubleshooting tips for poll workers.

Contacting ES&S for Technical Support

The *Model 100 Operator's Manual* contains comprehensive instructions for using the tabulator and descriptions of all scanner functions. If you require additional assistance or encounter a processing problem or system error, contact the ES&S technical support staff for advice or assistance.

Stay close to your scanner when you contact ES&S for support. Also, be prepared to provide the following information to the ES&S support representative:

- **The model number of your tabulator.**
- **The version number of the firmware installed on the tabulator.**
- **The exact wording of any messages displayed by the scanner.**
- **A description of what happened to cause the problem.**

Support representatives normally answer calls between 8:00 a.m. and 5:00 p.m.

CST but ES&S extends support hours during election periods.

To contact an ES&S support representative:

Telephone: 877-377-8683 (USA & Canada) or
402-593-0101 (International)

Fax: 402-593-8107

Write: Election Systems & Software

11208 John Galt Blvd.

Omaha, NE 68137 USA

ES&S support services are subject to the prices, terms, and conditions in place at the time the service is used.

Chapter 2: Understanding Warning

Symbols

The following symbols appear in the *Model 100 Operator's Manual* next to the descriptions for any procedure that, if improperly executed, could cause harm to the operator or damage to the scanner. Read all of the warnings in this manual and use extra caution when you carry out any task that may pose a physical danger to yourself or the Model 100 tabulator.

Electrical Shock Danger: This symbol appears next to procedures that expose the operator to a risk of electric shock. Any operation that requires opening the Model 100 enclosure exposes users to dangerous high voltages. To reduce the risk of fire or shock, do not attempt to open the Model 100 enclosure unless you receive proper training from an ES&S technician.

User Caution: The user caution symbol appears next to procedures that could cause damage to the scanner or injury to the operator if improperly executed. Carefully read all warnings and proceed with caution if you choose to carry out these tasks.

Important Safety Instructions

Important: Read and follow the safety recommendations in this section of the *Model 100 Operator's Manual* to maintain proper safety measures when operating the scanner.

Read the Operator's Manual

Carefully read the operator's manual before you attempt to operate the scanner.

Carefully follow all instructions and read all warnings contained in the *Model 100 Operator's Manual*.

Power Sources

Only use the type of power source indicated on the ID label of your Model 100 to power the tabulator. Make sure that you install the tabulator in compliance with all applicable sections of the National Electric Code. Consult your local building code before you install any ballot-scanning equipment.

4

Ventilation

The case of the Model 100 scanner contains slots and openings that provide the ventilation for the unit. To prevent the Model 100 from overheating, do not block or cover any of the scanner's openings during operation. Do not operate the Model 100 in an enclosed housing unless ES&S approves the container. Use only the integrated ballot box supplied by ES&S as a ballot container for the Model 100.

Water and Moisture

Caution: Do not place containers with liquids such as coffee, water or soda on or near a Model 100 terminal. Do not operate the scanner in an excessively wet environment. Store the Model 100 in a cool dry place.

Cleaning

Follow instructions in the "Cleaning the Scanner" section of Appendix A to properly maintain the Model 100. Use only the cleaning solutions approved and specified by

ES&S to clean the tabulator.

Heating

Do not install the Model 100 near heat sources such as radiators, air ducts, areas subject to direct sunlight or other products that produce excessive heat.

Power Cord Protection

After you plug the scanner into an approved outlet, route or install the power cord for the Model 100 in such a manner to protect it from being walked over or pinched. Turn the scanner key to the off position before connecting or disconnecting the power cord. Remove the power cord before you move the unit. Only plug the power cord in to an easily accessible unobstructed wall socket.

Servicing

Do not attempt to service the scanner unless specifically instructed to do so by ES&S. Do not attempt to open the scanner case or perform internal maintenance unless you receive proper training from ES&S.

5

Damage Requiring Service

Some situations require an ES&S technician to resolve. Unplug the Model 100 and call ES&S to schedule service with a technician for the following conditions. Do not attempt to repair the scanner without first contacting ES&S.

- When the power cord is damaged
- If liquid is spilled into the scanner casing
- If the product is physically damaged in any way

- When the scanner displays a negative change in performance

Additionally, you should seek assistance from ES&S if the scanner does not function according to the descriptions in the operator's manual. Unless you receive specialized training from ES&S, do not attempt to adjust advanced settings that are not described in the *Model 100 Operator's Manual*. Improper adjustment of advanced controls may result in damage to the scanner and often require service by an ES&S technician to restore the scanner.

Battery Replacement Warning

Caution: Improperly replacing the terminal battery exposes the operator to a risk of explosion. Only qualified ES&S technicians should replace Model 100 scanner batteries.

6

7

Chapter 3: Understanding the Counter

Use the diagrams and descriptions in this chapter to familiarize yourself with Model 100 scanner components and functions. Always scan a ballot test deck before your election to test the scanner for accuracy and to correct any functional errors before you count official ballots.

For a list of recommended polling place supplies and instructions for assembling and testing the Model 100, see Chapter 4, "Performing Pre-Election Day Tasks."

The Scanner

The Model 100 scanner reads marks on both one and two-sided ballots.

Administrators can request custom ballot acceptance criteria, which ES&S programs onto the scanner's election definition PC Card. For example, if a jurisdiction prohibits counting blank ballots, ES&S election coders can program the Model 100 sort blank ballots out of the general ballot count until jurisdiction officials can review the ballots. With each acceptable ballot counted, the Model 100 increases the running vote totals for each race included on the election definition. A standard 120-volt AC power cord supplies electricity to the scanner. If a power outage occurs, the Model 100 contains an internal back-up battery that can run the scanner for one to three hours, depending on scanner activity. The tabulator stores accumulated totals to internal scanner memory (DRAM) and to a removable PC Card.

Key

Printer

Paper

Thermal

Printer

Display Screen

(LCD)

Menu Control

Buttons

Ballot

Entry Slot

Parallel/Serial

Port PC Card Slot Access Panel

Access Panel

Printer

Access Panel

Printer

Paper Slot

Key Access

Panel

8

The Model 100 can generate reports and store election results in the following formats:

- Paper reports produced from the scanner's internal, thermal printer or by an external printer connected to the scanner.
- A removable PC Card that you can use to transfer scanner results to Election Reporting Manager after the polls close.
- Data transferred by modem directly from the scanner to a PC running Election Reporting Manager.

The Ballot Box

Model 100 ballot boxes store ballots and house the scanner at the polling place.

ES&S supplies one of two styles of ballot box (metal or nested) with each Model 100 scanner. The Model 100 feeds scanned ballots directly into the ballot box, which sorts the ballots according to criteria programmed in the election definition with an internal diverter. The ballot box also has a compartment that poll workers can use to temporarily store uncounted or contested ballots in the event of a power failure or scanner error.

Metal Ballot Box Nested Ballot Box

9

The PC Card

The Model 100 uses PC Cards to store the scanner's election definition, audit log and other election-specific information. Data on the PC Card exists in one sequential block, which is updated each time the Model 100 scans a ballot. Use PC Cards with a memory capacity of 256KB (kilobytes) or 512KB.

Scanner Controls

The four external buttons below the Model 100 LCD message screen control all scanner functions. Push the button below a menu option on the display screen to navigate Model 100 system menus.

The Menu Display

The Model 100 display screen contains four message areas. The top-center line of text on the screen identifies the current menu. The message in the top left corner identifies the status of the scanner. For example, "S-MODE" indicates that the operator has turned the scanner control key to the OPEN/CLOSE POLL position and the Model 100 is in supervisor mode. The message on the top right of the screen displays the scanner's battery status. The message "NO-AC" indicates that the scanner is using battery power. The lower line of text identifies available menu options. Press the button below a command to select a menu option.

Menu Option

Control Buttons

Supervisory

Mode Indicator

Current Title

Menu Type of Power

Source

10

Operators access most menu options through a series of sequential steps, while other options are only available while the scanner key is in the OPEN/CLOSE POLL position. The far right control button usually functions as a “Previous Menu” key that navigates backwards through Model 100 menus. For a detailed list of menu commands and functions, see Appendix D, “Understanding System Menus.”

Understanding the Three Operating Modes

The Model 100 operates in three separate modes. Operators open the scanner in diagnostic mode to calibrate and test the scanner. In polls open mode, the Model 100 actively scans ballots and tabulates results, and, in polls closed mode, the scanner prints poll reports and transfers election results.

Diagnostic Testing Mode

Open the scanner in diagnostic testing mode to load system firmware, calibrate the scanner and test your election definition.

Election officials should load system programs and test Model 100 election definitions before delivering scanners to polling places. Complete the following tasks to prepare a scanner for an election:

1. Load the election definition into the scanner. For more information, see

“Loading the Election Definition” in Chapter 4.

2. Test the election definition and the scanner to ensure accuracy. For more information on testing the scanner, see Chapter 4, “Preparing the Counter.”
3. If necessary, lock out system functions after testing the scanner. For more information about locking down the system, see Chapter 4, “Preparing the Counter.”

Note: Locking out system functions keeps protects the Model 100 from tampering but still allows access to election testing functions.

Polls Open Mode

Open the polls to begin regular Election Day functions such as scanning ballots and tabulating vote totals.

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Poll workers should monitor the scanner during an election, but the Model 100 requires minimal operator involvement during voting. The operator’s main responsibility during voting is responding to system messages.

Polls Closed Mode

Close the polls at the assigned time to print reports or transfer scanner totals to election headquarters. Available Model 100 reports include Status Reports, Poll Reports, Precinct Reports, Certification Reports and the Audit Log report. After the polls close, operators can also transfer results to a central site using the scanner’s modem.

Understanding the Election Definition

Election coders program a custom election definition onto a PC Card for each Model 100 used in your jurisdiction. An election definition contains all of the candidates, contests and ballot variations that the scanner will process at the polling place. The election definition also contains customizable program options that control how the tabulator operates and reports results. Customizable options include (but are not limited to):

- Automatic results transfer by modem
- Ability to re-open the polls
- Grouping of undervotes and overvotes on reports
- Automatic certification report printing when polls are closed
- Automatic results report printing when polls are closed
- Rejection, acceptance or query the voter when a scanner detects an overvoted, cross-voted or blank ballot

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Chapter 4: Performing Pre-Election Day Tasks

Use the equipment list and the procedures included in this chapter to prepare your Model 100 scanner for a live election. Always perform routine maintenance on your voting equipment and test your ballot scanners before you open the polls on Election Day.

For instructions for opening and closing the polls, operating the scanner during an

election and printing or transferring results, see Chapter 5, “Election Day Tasks.”

Recommended Supplies

ES&S recommends maintaining a supply of the following items for each Model 100 used in your jurisdiction. All of the listed items are available for order from ES&S.

Contact ES&S customer service at (800) 247-8683 with any questions or orders.

Allow four weeks for delivery.

- **Paper Spools:** The printer uses NRC 2.25” by 165’ thermal paper rolls. The NCR part number is 856704. **Recommended Quantity: 1 full roll per**

scanner

- **PC Cards:** Battery backed PC cards that store the scanner’s election definition and ballot count. The standard memory capacity for Model 100 PC Cards is 256k but larger sizes are available. **Recommended Quantity: 1 per scanner**

- **Marking Devices:** ES&S recommends and supplies the Bic Round Stic (Black) medium point pen for voters to mark ballots. The Bic pen is the only marking device approved by ES&S for the use with the Model 100.

- **Pressurized air cans:** Use pressurized air to clean the scanner.

Recommended Quantity: 2 cans per scanner

- **Cleaning pad and isopropyl rubbing alcohol:** Use isopropyl alcohol to clean the scanner rollers. If you order the cleanser from ES&S, the part identifier is ES-Cleaner. To clean the scanner rollers, pour the cleanser into a spray bottle and dampen the cleaning pad. Never spray cleanser directly on the scanner.

Recommended Quantity: 1 bottle per scanner

Recommended Modem Types

Equip your Model 100 scanners with modems if your jurisdiction transfers precinct results to election headquarters over a network connection. ES&S tested and approved the following modems for use with Model 100 precinct scanners:

- **PCMCIA Modem:** MEGAHERTZ, XJ4336-CC4336, V.34+

Data/Fax/Cell/VOX

- **PCMCIA Modem:** 3COM, 3CXM/3CCM556, MEGAHERTZ Cell

Telephony Modem, Data/Fax/Cell 56 Kbps

- **PCMCIA Modem:** USROBOTICS, XJ/CC5560, MEGAHERTZ Modem,

Data/Fax/Cell 56 Kbps

- **PCMCIA Modem:** 3COM, MEGAHERTZ, 3CXM756 / 3CCM756,

Data/Fax/Cell Serial Port Modem

- **External Modem:** Hayes compatible external modem

- **Cellular Digital Packet Data (CDPD):** Internal Novatel Model NRM 682

(n

- **External PCS Phones:** Samsung PCS3500, Motorola PCS7876, QualComm

PCS 2760, Sony SPC 4000

Note: If your jurisdiction transfers results via for TCP/IP wireless transmission, use one of the PCS phones in the previous list.

Note: CDPD wireless modem functionality is not supported for the Unity 2.5 voting system.

Assembling the Ballot Box

ES&S delivers each Model 100 scanner with either a nested ballot box (made of hard plastic) or a metal box. The metal ballot box does not require assembly. If your jurisdiction uses metal boxes, skip to the “Mounting the Scanner” section of this chapter. Use the instructions in the following sections to prepare ballot boxes at your polling places if your jurisdiction uses nested ballot boxes.

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Assembling the Nested Ballot Box

ES&S delivers the nested ballot box and scanner in two containers. A carrying case that holds the scanner and power cord and a cube that assembles into the ballot box. Keys for the scanner and ballot box accompany the equipment. Completely assemble the ballot box before you mount the scanner.

Note: Although the ballot box can be assembled by only one person, ES&S recommends a second poll worker assist with separating the top half of the box from the bottom half and with attaching the two halves during assembly.

To assemble the nested box

1. Unlock the cover of the ballot box with the key provided (one key fits the lock for all nested boxes).
2. Lift the box cover straight up and off the box and then set the cover aside.

Lock

Cover

Divider

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3. Remove the divider, which looks like a flat piece of plastic with a cutout handle,

from inside the box and set the divider aside.

4. Swing the two handles up from inside the ballot box. Pull up on the handles until the top section of the box separates from the bottom section and then set the top section to the side.

Top Section

Handles

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5. Align the edges of the divider with the vertical grooves inside the bottom section of the box. Insert the divider until it locks into the tab at the bottom of the box.

6. Flip the top section of the box upside down so that the swinging handles hang down. Position the top section of the box over the bottom section. Make sure that the indentations on the front of both boxes face the same direction.

Rim

Indentations

18

7. Lower the top section of the box until it fits inside the bottom. The handles on the top section should fit snugly inside of the bottom section. Use your ballot box key to lock the two locks on the front and the back of the box.

8. Slide the latch on the top section of the ballot box through the hole in the side of the bottom section.

Attaching the Model 100 to the Ballot Box

The metal box and nested box are equipped with different types of scanner access doors. Other than the access door, the process for mounting the scanner to either ballot box is the same.

To set up the power cord

1. Before you mount your scanner to the top of a ballot box, inspect the power cord for damage.

Important: If the cord appears damaged, discard it and contact ES&S for a new cord.

2. Insert the female end of the cord through the opening on the outer left side of the ballot box.

3. Thread the cord through the outside opening on the back of the box until the cord appears on the inside of the opening at the top recessed area.

4. Pull the cord through the opening until it extends a few inches into the recessed area of the ballot box. Then, remove the scanner from the carrying case.

Cord

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5. Place the scanner about one-third of the way into the recessed area and slide it onto the mounting rails until it sits about four or five inches from the back of the recessed area.

Warning: Only plug the Model 100 scanner into a grounded, threepronged electrical outlet. Plug only one scanner into each available outlet. ES&S recommends does not recommend using an extension cord.

6. Plug the female end of the power cord into the Power Entry Module on the back of the scanner and then plug the male end of the cord into a wall outlet.

Arrange your voting equipment to make sure that no one trips on the cord or

accidentally unplugs the scanner on Election Day.

Note: The message, “NO-AC,” appears on the scanner’s display screen if the scanner is not receiving power through the power cord. Check your connections and the wall outlet if this message appears on your scanner’s display screen.

Mounting

Rails

Rear

Handle

Power Entry Paper Path

Module

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To attach the scanner to the ballot box

1. Slide the scanner against the back of the ballot box. Make sure the diverter connector at the back of the scanner locks into the slot on the ballot box.
2. Insert the scanner key into the control panel turn it to OPEN/CLOSE POLL position to start the Model 100 and generate an Initial State Report.
3. Slide the door on the front of the ballot box up until it covers the front of the scanner.

Note: The front access door on the nested ballot box slides up and down, while the door on the metal box is a hinged panel. Both doors lock to limit access to the scanner’s PC Card.

Metal Ballot Box Nested Ballot Box

4. If you use a nested ballot box, align the bottom arrow on the door with the

center of the lock and lock the door into place.

OR

If you use a metal ballot box, align the hole in the access door with the bracket on the box and lock the hinged panel into place. Test the door to make sure the lock properly engages.

Swing Hinged

Door Downward

Hinged

Door Lock

and Key

Pull Door

Upward

Arrows

Door Lock

and Key

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Preparing the Counter

After you mount the scanner to the ballot box, there are a number of tasks that you must complete before you open the polls. Because the proper operation of the counter depends on performing the following tasks, it is important to carefully review this section before every election.

Charging the Battery

The Model 100 uses a backup battery to ensure that scanner operations continue

without interruption during a power failure. Plug the scanner in and turn the power on for twelve hours to fully charge the battery. If you charge multiple Model 100 precinct counters, do not connect more than 40 scanners per 15-amp circuit.

To check the battery charge

1. Turn the scanner key to the OPEN/CLOSE POLL position to power up the scanner and open the **DIAGNOSTIC-TEST** menu. Select **DIAGS** to open the DIAGS menu and select **MORE DIAGS**.
2. From the MORE DIAGS menu, select **BATTERY STATUS** to check your scanner's battery charge. For more information on the battery, see Appendix A, "Maintaining the Counter."

Loading the Election Definition

Model 100 precinct tabulators use election definitions programmed on PC Cards to recognize ballot marks and tabulate results. Make sure the scanner key is in the OFF position when you load an Election Definition.

To load an election definition

1. Lift the access door on the front left of the scanner to access the Model 100 PC Card slots. Insert the card programmed with your election definition into either card slot.
2. Turn the key to the OPEN/CLOSE POLL position to start the scanner. The Model 100 automatically loads the election definition and prints an initial state report. The "S-MODE" prompt should appear in the upper left corner of the Model 100 display screen.

Note: An arrow on the PC Card label shows which end of the card you should

insert into the scanner. After the card is inserted, the eject button to the right of the card slot sticks out. Install the card in either the top or the bottom slot. If

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one slot does not accept the card, try the other. Do not force the card into a slot.

Checking the Election Definition for Accuracy

The Model 100 automatically generates an Initial State report when you start the scanner. Check the report for the following information:

- **System Values:** Make sure the date and the time appear correctly on the report. If the information is not correct, change date and time from the **DIAGNOSTIC-TEST** menu. For more information about changing the date and time settings for the scanner, see “Changing the Date and Time” in this chapter.
- **Election Information:** Make sure that the jurisdiction name, polling place, and the number of precincts listed on the report are correct.

The Diagnostic-Test Menu

After you insert an election definition and start the scanner, the message, “ELECTION CARD INSERTED, OPEN POLLS NOW?” appears on the display screen. Press the first and third buttons on the control panel to access the scanner’s diagnostic test options.

Access the following the following menus from the **DIAGNOSTIC-TEST** menu:

Press both buttons at

once to select the

- **DIAGS:** Select **DIAGS** to open the **DIAGNOSTIC** menu. Select **MORE DIAGS** to access the **BATTERY STATUS** option and check the charge for the backup batter. Only ES&S technicians should select the **MOTOR CONTROL**, **BALLOT DIAGS** and **SYSTEM REPORTS** commands.
- **SYSTEM SETTINGS:** Access the **SYSTEM SETTINGS** and select **THRHLDS** to perform system tests such as the multi-sheet test (see “Checking the Multi-sheet Sensor” in this chapter). Select **DATE TIME** to change the scanners date and time settings (see “Changing the Date and Time” in this chapter). Only ES&S technicians should select **CALIBRATE DACS**.
- **ELECTION TEST:** Select the **ELECTION TEST** menu to test your scanner and election definition. For more information about testing your scanner, see “Testing the Election Definition” in this chapter

Note: The Model 100 does not allow you to open the scanner for voting unless you install a PC Card programmed with an election definition. If you start the Model 100, without installing a PC card first, only the diagnostics menu will be accessible. For a description of the menu options available without an election definition, see “Appendix D: Understanding System Menus.”

Changing Date and Time Settings

Daylight savings or a power failure can throw off Model 100 date and time settings. Use the **DATE/TIME** option from the **SYSTEM SETTINGS** menu to reset the scanner’s date and time settings.

To change the date and time

1. Access the **SYSTEM SETTINGS** menu from the **DIAGNOSTIC-TEST** menu and select **DATE TIME**.
2. Select **SET DATE** or **SET TIME**, depending on which setting you want to change.
3. In either mode, press **SELECT** to scroll through number positions and then select **PLUS** or **MINUS** to increase or decrease the values.

Note: The **SET ZONE** option is the time zone setting based on Greenwich Mean Time. The **DAYLIGHT SAVINGS** option sets the date that the internal clock automatically changes for daylight savings. ES&S sets the **TIME ZONE** and **DAYLIGHT SAVINGS** options before shipping the scanner, and you should not adjust them.

4. After you correct the scanner's date and time settings, select **PREVIOUS MENU** twice to return to the **DIAGNOSTIC-TEST** menu. The message, "LOCK OUT SYSTEM SETTINGS?" appears.

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5. Select **YES** to remove the **SYSTEM SETTINGS** option from the **DIAGNOSTIC-TEST** menu. If you lock out the scanner's system settings, the option will not be available unless you install new election definition PC Card into the scanner. Select **NO** to retain access to the scanner's system settings.

Testing the Multi-Sheet Sensor

The Model 100's multi-sheet sensor prevents multiple ballots from passing through the scanner's read area at the same time. Test the multi-sheet sensor before Election

Day to make sure that your scanner does not accept multiple ballots.

To test the multi-sheet sensor

1. From the **SYSTEM SETTINGS** menu, select **THRHLDS** to access the **THRESHOLDS** menu.
2. Select **MULTI SHEET** to open the **MULTI SHEET DETECTION** menu.
3. Place one test ballot on top of another and push the stacked ballots halfway into the ballot entry slot. The message, “DETECT TRUE,” appears if the scanner recognizes the presence of more than one ballot in the read area. The message, “FALSE,” appears if the scanner fails to detect multiple ballots.
4. If the multi-sheet sensor functions properly, press **PREVIOUS** to return to the **THRESHOLDS** menu. From the **THRESHOLDS** menu, press **PREVIOUS MENU** to return to the **SYSTEM SETTINGS** menu.

Note: If your scanner fails to detect multiple ballots, try the test again. Make sure that you feed the ballots at least halfway into the read area. If the sensor fails repeatedly, contact ES&S customer service for assistance.

Connecting an External Printer

You can connect an external printer to the Model 100 in order to print scanner reports on 8.5 x 11-inch paper. The scanner automatically sets the external printer as the default report destination once you attach a printer to your Model 100.

To connect an external printer, plug the printer cable into the parallel printer port located behind the right, front door of the scanner.

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Connecting an External Modem

If your Model 100 is not equipped with an internal modem, connect an external modem to the scanner to transfer results directly from your polling place to election headquarters.

To connect an external modem

1. Connect the serial cable for your modem to the external communications port under the Model 100's right, front panel.
2. Connect the other end of the modem cable to the RS-232 port on the modem.
3. Connect the telephone line at your polling place to the RJ-11 telephone jack on the modem.
4. Plug the modem into an electrical outlet.

Connecting the Internal Modem

If your Model 100 scanner is equipped with an internal modem, use the telephone cord that came with your scanner to connect the Model 100 to a telephone jack.

To connect the internal modem

1. Connect one end of the telephone line to the RJ-11 telephone jack behind the front, right access door on the scanner.
2. Connect the other end of the telephone line to a telephone jack at the polling place.

Testing the Election Definition

Test the election definition for each of your scanners before you deliver Model 100s to your polling places. To test a Model 100 election definition, scan the ballot test deck supplied by ES&S with your election definition PC Card and compare the results to the test reports supplied by ES&S.

Test the scanner only after you install the election definition and configure the Model 100. If your jurisdiction programs its own election definitions, create a test deck that includes at least one ballot for each precinct enabled for your scanner and maintain accurate records of your test ballot selections. After you scan the test ballots, generate a results report and compare the scanner report to your ballot records. If the results do not match, make sure that the marks on your test ballots are dark and clean and then scan the test ballots again.

Note: The following ballot test is not accurate if you modify the **TARGET COUNT** setting from the **AUTOREAD SETTINGS** menu.

To scan a ballot test deck

1. Start the scanner and access the **DIAGNOSTIC-TEST** menu, select **ELECTION TEST** to open the **ELECTION TEST** menu.
2. From the **ELECTION TEST** menu, select **TEST BALLOT** to open the **BALLOT TEST** menu.
3. From the **BALLOT TEST** menu, select **FEED BALLOTS** to open the **ELECTION TEST INSERT BALLOT** menu.
4. Insert test ballots into your scanner one at a time. The public counter on the Model 100 message display screen should increase by one for each ballot the scanner processes. The Model 100 can scan ballots inserted in any orientation.

Note: If you programmed the Model 100 to tabulate ballots for multiple precincts, you must enable the additional precincts before scanning your ballots.

For more information about scanning ballots for multiple precincts, see

“Enabling Multiple Precincts for Testing” in this chapter.

To print ballot test reports

1. After you finish scanning test ballots, select **PREVIOUS** to open the **BALLOT TEST** menu. From the **BALLOT TEST** menu, select **PREVIOUS MENU** to return to the **ELECTION TEST** menu.

2. From the **ELECTION TEST** menu, select **REPORTS** to open the **ELECTION REPORTS** menu.

3. From the **ELECTION REPORTS** menu, select **REPORTS** to open the **PRINT REPORTS** menu.

4. From the **PRINT REPORTS** menu, access the following reports to view test results for your scanner:

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- Select **STATUS REPORT** to generate a report that includes the number of ballots processed by your scanner. Verify that the number of ballots counted matches the number of ballots in your test deck.

- Select **PRECINCT REPORT** or **POLL REPORT** to generate test results reports. Compare the scanner reports to your test ballot records to make sure that the totals match.

5. Verify your results and then select **PREVIOUS MENU** three times to exit the **ELECTION TEST** menu. The third time you select **PREVIOUS MENU** the message “Clear Election Test Results and Leave Election Test Menu?” appears. Select **YES** to clear test results and return to the **DIAGNOSTIC TEST** menu.

If your scanner results and test records do not match, review your test ballots

for errors and repeat the test. If the results are not correct after running the test a second time, contact ES&S for customer support.

To repeat a diagnostic test from the PRINT REPORTS menu

1. Beginning in the **PRINT REPORTS** menu, press **PREVIOUS MENU** twice to open the **ELECTION TEST** menu.

2. Select **ZERO TOTALS** to clear the scanner totals from your previous test.

The message “Counters are set to zero” appears when the scanner memory is clear. Press **OK** to continue.

3. Select **TEST BALLOT** and repeat the testing process described in the “Testing the Election Definition” section of this chapter.

Note: If your scanner totals do not match test ballot records after a second test, contact an ES&S technical support representative for assistance.

Enabling Multiple Precincts for Testing

The Model 100 can process ballots for up to 10 precincts. This feature is useful for the following reasons:

- System redundancy and backup
- Absentee ballot counting, (ES&S can program a “dummy” precinct that allows you to view absentee ballot totals separately from Election Day totals)
- Processing ballots for multiple precincts on a single scanner

Note: When you create a ballot test deck for a scanner programmed to read ballots for multiple precincts, create and scan at least one ballot for each precinct the scanner will process on Election Day.

To enable multiple precincts for a ballot test

1. Use the instructions in the “Testing the Election Definition” section of this chapter to access the ballot test menu. Feed one test ballot into the scanner and then press the far left button on the scanner’s control panel under the **ELECTION TEST INSERT BALLOT** menu to open the **ENABLE PRECINCTS** menu.

2. Select **NXT-PREC** to cycle through the available precincts.

3. Select **ENABLE** for each precinct that you want to open on your scanner.

Selected precincts remain enabled for the duration of your ballot test. The scanner defaults to original precinct settings after you complete the test.

4. Select **PREVIOUS** to return to the **ELECTION TEST INSERT BALLOT** menu.

5. Resume your ballot test and print your test reports. For more information on testing your scanner, see “Testing the Election Definition” in this chapter.

Note: After you open the polls, enable precincts by turning the key to the **OPEN/CLOSE** polls position and pressing the button furthest to the left on the control panel. Once you enable a precinct, you cannot disable it.

Configuring a Wireless Modem

If your jurisdiction uses optional, Model 100 wireless modems to transfer results to election headquarters, configure the modem from the **DIAGNOSTIC-TEST** menu before you open the scanner for voting.

To configure the Model 100 wireless modem

1. Turn the key on the Model 100 to the OPEN/CLOSE POLL position. The

message, “ELECTION CARD INSERTED OPEN POLLS NOW?” appears.

2. Press the first and second buttons from the left simultaneously to open the **MODEM** menu. The options available in the **MODEM** menu are **MODEM SETTINGS** and **CDPD STATUS**.

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3. Select **MODEM SETTINGS** to change the telephone number for election headquarters, change IP address settings for your network transfers and to configure other modem functions.

4. Select **CDPD STATUS** to test the Model 100 wireless modem.

Note: CDPD wireless modems are not supported by the Unity 2.5 voting system

The Pre-Voting Checklist

Review the following list before you open the scanner for voting:

- Have you anticipated all potential special voting conditions, such as overvotes and absentees, and included those conditions in the election definition?
- Have you charged the scanner’s back-up battery?
- Is there a sufficient paper supply for the printer? If you use an external printer, have you recently changed the ribbon? Is a backup ribbon readily available?
- Have properly completed setup and test procedures?
- Do ballots contain the correct precinct identification number(s)? Does the identification number on the PC Card match the number on your ballots?

After completing all pre-election preparations, turn the key on the Model 100 to the OFF position. Remove the key, close the key access panel and prepare the scanner

for transportation to the polling place.

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Chapter 5: Performing Election Day Tasks

This chapter contains instructions for the following Election Day tasks:

- **Opening the polls**
- **Scanning Ballot**
- **Closing the polls**
- **Re-Opening the polls**
- **Handling Uncounted Ballots**
- **Printing election reports**
- **Transferring results**

Opening the Polls

Before your polling location opens for voting, retest and check the system configuration for each of your scanners. For more information about testing and configuring scanners, see Chapter 4, “Performing Pre-Election Day Tasks.”

After you test and configure your scanners, load the PC Cards with the scanner election definitions and turn the Model 100 control key to the OPEN/CLOSE POLL position on each scanner at the polling location. Then, use the instructions in this section to prepare the scanners for voting.

To open the polls

1. After you start the scanner with the control key, the system initializes and the message “ELECTION CARD INSERTED: OPEN POLLS NOW?” appears.

Select **YES** to open the polls.

2. After you open the polls, the message “PLEASE TURN KEY/SWITCH TO VOTE” appears on the scanner display screen. Turn the key to the VOTE position to initialize the following scanner functions:

- The scanner checks available memory and scans election definition for errors.
- Depending on options set for your election definition, the Model 100 prints a Status Report, a Zero Totals Report and/or a Zero Certification Report

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on activation. Select **CANCEL** at any time during printing to cancel the current report and all following reports.

3. After the Model 100 finishes printing the startup reports, make sure the scanner key is in the VOTE position, and then remove the key and close the access panel.

4. After you remove the key, you can open the scanner for live voting. Make sure that the public counter on the Model 100 display screen increases by one with each ballot cast but do not make any further adjustments to the scanner unless a system message appears.

Note: If you need to review a scanner’s function history, you can print a system audit report at any time while the polls are open. To print an audit report, open the scanner’s access panel, insert the control key and turn the key to the

OPEN/CLOSE POLL position. Select **AUDIT LOG REPORT** from the scanner control panel to print the report. You can cancel the report at any time by pressing **CANCEL**. After you finish printing, turn the key to the **VOTE** position and close the key access panel to re-open the scanner for voting.

Scanning Ballots

The Model 100 can scan ballots inserted in any direction or orientation. Depending the options set for your election definition, the Model 100 will use one of the following methods for accepting or rejecting blank ballots, overvotes, and crossover votes:

- **Unconditional acceptance:** The scanner accepts and tabulates results for all ballots. The scanner automatically sorts questioned ballots without storing results from those ballots.
- **Unconditional rejection:** The Model 100 automatically rejects crossover, overvoted or blank ballots. Voters must review and correct ballot selections before the scanner will accept the ballot.
- **Query the voter for correction:** The Model 100 returns a questioned ballot to the voter and displays a screen message that describes the problem and prompts the voter to either review and edit the ballot or cast the ballot as it is. The voter can press **RETURN** to correct the ballot or press **ACCEPT** to cast the ballot without editing selections.

Poll workers should closely monitor system messages during voting. For descriptions of system messages and recommended actions, see Appendix C, “Understanding System Messages.” If you encounter a problem that you cannot

correct, contact election headquarters or ES&S technical support.

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Closing the Polls

Close your polling place for voting at the assigned time and then, use the Model 100 control key to prepare scanner results for processing. You cannot print reports, transfer results or process vote totals from the scanner's PC Card until you properly close the polls.

You can print election, event, and audit log reports after you close the scanner for voting. You can also transfer results to combine your scanner totals with the final vote tallies from other polling places at a central counting location.

To close the polls

1. Check the ballot auxiliary bin for sorted, uncounted ballots.

Note: Study your jurisdiction's procedures for handling uncounted ballots before Election Day. For more information about removing and processing sorted ballots, see "Handling Uncounted Ballots" in this chapter.

2. Open the Model 100 Key Access Panel, insert your control key and turn the key to the OPEN/CLOSE POLL position to access the **CLOSE POLLS** command.

3. Press **CLOSE POLLS** to officially close the polls. Depending on your election configuration, the scanner may automatically print one or more of the following reports: Status report, Race Results report, Certification report and/or Audit Log report. Select **CANCEL** to stop printing a report at any time. The **POLLS CLOSED** menu appears after the scanner finishes printing.

Note: If you configured the Model 100 election definition to automatically transmit results over a network connection to a central PC, the data transfer begins at this time.

4. To print additional Audit Log Reports, select **AUDIT – LOG REPORT** from the scanner control panel. Select **CANCEL** to stop printing at any time.

Caution: If you use a modem to transfer Model 100 results, generate all necessary, printed reports before you transmit results. In order print paper reports, the scanner uses PC Card data that the Model 100 automatically deletes after transferring data over a network. For descriptions and examples of each Model 100 report, see Appendix B, “Understanding Reports.”

5. From the **POLLS CLOSED** menu, select **SEND RESULTS** to manually transmit election results over a network connection. After the Model 100 attempts to send results, the scanner displays a message that indicates whether data transfer was successful. If the transfer fails, attempt to send results again. Deliver the PC Card to election headquarters if the transfer fails a second time.

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For more information about transferring Model 100 results, see the “Transferring Results” section of this chapter.

Reopening the Polls

If you discover voted ballots mistakenly left in voting booths after the polls close or, if you must close the scanner for voting before the assigned time, you can reopen the Model 100 to scan uncounted ballots.

Note: Some jurisdictions do not allow reopening of the polls after the assigned

closing time. Your jurisdiction must specifically request the option to reopen the polls from ES&S election programmers or include the option on the election definition PC Card in order to reopen polls.

To reopen the polls

1. Turn the scanner control key to the OPEN/CLOSE POLL position to access the **POLLS CLOSED** menu. Select **MORE** to open the **MORE SELECTIONS** menu. From the **MORE SELECTIONS** menu, press **REOPEN POLLS**, to open a password selection screen.
2. Contact your election administrator or ES&S customer support for the scanner password. Press the outside-left button on the control panel to cycle through the numeral positions. Use inside-left button to increase the selected number and inside-right button to decrease the number.
3. Press the button labeled **ENTER** after you input the password. The message, “CLEAR ELECTION DAY TOTALS,” appears if your password is correct. Select **YES** to clear scanner totals or **NO** to add the totals from any scanned ballots to the stored results.

Note: Do not select **YES** under the “CLEAR ELECTION DAY TOTALS” heading unless you want to erase *all* vote totals from scanner memory. If you accidentally press **YES**, you must rescan all of the ballots cast on the scanner.

4. The message, “ELECTION CARD INSERTED, OPEN POLLS NOW?” appears after you clear or retain scanner results. Simultaneously press the first and third buttons on the control panel to access the **DIAGNOSTIC-TEST** menu from this screen. Select **YES** and then turn the key back to the **VOTE**

position to re-open the polls.

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Lock and

Key

Uncounted

Ballot(s)

Storage Bin

Hinged Panel

Slide Door

Upwards

Lock and

Key

Uncounted

Ballot(s)

Storage Bin

Handling Uncounted Ballots

Save any ballots that were uncounted during voting due to, sorting, power failure or scanner problems in the temporary ballot storage bin. After you close the polls, remove and scan the uncounted ballots to add the totals to your scanner's memory.

Study your jurisdiction's regulations for handling uncounted ballots before you remove and scan stored ballots.

If your jurisdiction uses metal ballot boxes, unlock the ballot access panel on the left side of the ballot box to remove stored write-in ballots.

To access the temporary ballot storage bin

1. Unlock the sliding door on the front of the nested ballot box or the bottom door on the front of the metal ballot box.
2. If you use the nested ballot box, slide the bin door upward and away from the storage bin to access your uncounted ballots. If you use the metal ballot box, swing the hinged door on the front of the box down to access the uncounted ballot storage bin.

Metal Ballot Box Nested Ballot Box

3. Inspect the uncounted ballots and then feed them into the scanner.

Note: Double-check the back of the bin to make sure that no ballots remain uncounted.

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Printing Election Reports

The Model 100 generates a variety of results reports after the polls close.

Depending on the options configured for your election definition, the scanner may automatically print reports when you close the polls or you can manually select reports from the **POLLS CLOSED** menu.

To print a report

1. Close the polls to access the **POLLS CLOSED** menu and select **RESULTS REPORT** to reprint any automatic reports generated by the polls closed. The types of reports generated depend on your election definition settings.
2. To print additional reports, return to the **POLLS CLOSED** menu and select **MORE** to access additional commands. Press **MORE REPORTS** to access additional report formats.

Note: You can configure your election definition to require a password to access the report menus.

3. Select **CHANGE TYPE** to toggle between Media and Summary report formats. For descriptions and examples of Media and Summary reports, see Appendix B, “Understanding Reports.”

4. From the **REPORT SELECTION** menu, select a report to begin printing. Press **CANCEL** to stop printing at any time.

Note: For descriptions and examples of each Model 100 report, see Appendix B, “Understanding Reports.”

Transferring Results

If your jurisdiction uses Election Reporting Manager to generate election reports, transfer results from your precinct counters to the PC running the reporting software.

To transfer the results with a modem:

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1. Select **SEND RESULTS** from the **POLLS CLOSED** menu. The Model 100 automatically searches for a modem and dials the phone number programmed into the election definition. The scanner displays a confirmation message if the data transfer is successful.

2. If the transfer fails, try to send results a second time. If the transfer fails again, deliver the scanner’s PC Card to election headquarters and load scanner results directly to Election Reporting Manager.

To transfer results with the PC Card:

1. Unlock the access door on the front of the ballot box.
2. Push the eject button and remove the PC Card from the scanner.
3. Deliver the PC Card to election headquarters.

Note: Deliver all write-in ballots to your election administrator as soon as possible after the polls close. Separate all of the write-in ballots from regular ballots. To remove write-in ballots from the ballot box, follow the instructions in the “Handling Uncounted Ballots” section of this chapter.

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Chapter 6: Performing Post-Election Day Tasks

Use the instructions in this chapter to perform routine maintenance and clean the Model 100 after the polls close. Post-election maintenance ensures that your scanner will be usable for many elections.

Disassembling and Packing the Ballot Box

Carefully pack the scanner and ballot box for storage. Disassemble the Nested Ballot Box after you remove uncounted ballots from the ballot storage bin. The Metal Ballot Box requires no disassembly.

To remove the scanner from the ballot box:

1. If you use the nested box, unlock the small sliding door on the front ballot box and slide the door down until it no longer covers the front of the scanner.

OR

If you use the metal box, unlock the top hinged panel on the front of the ballot box and swing it down to expose the front of the scanner.

The Metal Ballot Box The Nested Ballot Box

2. Turn the scanner control key to the **OFF** position, remove the key, and give it to the Election Administrator.

Note: Close the Key Access Panel and Printer Access Panel before you continue.

Hinged

Door

Lock

Swing Hinged

Door Downward

Slide Door

Downward

Door

Lock

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3. Pull the scanner forward about four to five inches and disconnect the power cord from the back of the terminal. Thread the cord through the back of the ballot box and unplug it from the wall outlet.

4. Slide the scanner forward until it clears the mounting rails and remove the scanner from the ballot box.

Note: Lock and secure all of the ballot box doors before you place the metal

box in storage.

5. Place the scanner and its power cord into the scanner carrying case.

To dismantle the nested ballot box:

1. Unlock the front and back locks that secure the two halves of the ballot box.

Then, remove the top section of the box and set it aside.

2. A plastic divider separates write-in ballots from the rest of the stored ballots in the box. The Model 100 diverts write-in ballots to the right side of the box and sends regular ballots to the left side. Keep the write-in ballots separated and remove all of the ballots from the box. Pack the regular and write-in ballots into separate, secure cases and transport them to your election headquarters.

3. Remove the plastic divider from inside the box.

Remove Top

Section

Front

Lock

Divider

Back

lock

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4. Turn the top section of the box so that the scanner compartment rests on the floor. Lift the top section and align the indentations on the front of the top and bottom of the ballot boxes. Lower the top half of the box into the bottom half.

5. Slide the divider into the left side of the top section until the top of the divider rests below the top rim of the box. Do not force the divider into the box. If you

encounter any resistance when you slide the divider into the box, you are attempting to place the divider on the wrong side of the box.

6. Locate the ballot box cover and align the front of the rim (the side with the indentation) with the front edge of the ballot box.

7. Place the cover onto the ballot box. Firmly press on the lid to engage the locks on the top of the cover at the front and back of the nested box.

Top Section

Handles

Rim

Indentations

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Appendix A: Maintaining the Counter

Perform the following maintenance tasks to keep your Model 100 scanner in proper working order:

- Clean the scanner
- Clean the ballot box
- Maintain the internal printer
- Maintain the scanner battery

Cleaning the Scanner

Clean your scanner before and after each election.

To clean the scanner

1. Turn off the scanner and unplug the power cord.

Warning: *Electrical Shock Danger.* Always unplug the AC power cord, turn the scanner's key to the OFF position and remove the key before you clean a Model 100 scanner.

2. Clean the ballot entry and exit slots with a can of pressurized clean, dry air or inert gas, which is available for order from ES&S. Aim the air can's spray tube into the ballot entry slot and blow out all the debris. Clean the ballot exit slot in the same way. Repeat the entire procedure and inspect the entrance and exit slots with a flashlight.
3. Use pressurized air to remove dust and debris from around the menu display.
4. Use a soft cloth and water, or a mild solution of water and soap, to wipe down the scanner. Dampen, do not soak, the cloth with the cleaning solution. Do not spray cleaning solution directly onto the scanner.
5. Clean the menu display window with the damp cloth. Be careful not to scratch the display panel. Then, clean the control panel buttons and the area around the buttons.
6. Use the cloth and cleaning solution to clean the scanner's outer case. Start at the top and work down to the base.
7. Clean the scanner's stainless steel base plate with the cleaning solution. Wipe all traces of the cleaning solution off the scanner after you finish cleaning.

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Cleaning the Ballot Box

Clean your Model 100 ballot boxes either before or after each election. You must disassemble the nested box for cleaning. The metal box requires no disassembly.

To clean the ballot box

1. If you use the nested ballot box, separate the box into its two halves. For instructions for disassembling the ballot box, see Chapter 4, “Assembling the Ballot Box.”
2. Use a cloth dampened with cleaning solution to clear dust and debris from the ballot box. For instructions for mixing cleaning solution, see “Cleaning the Scanner,” earlier in this appendix.
3. Remove the divider from the lower ballot bin before you clean the bottom section of the ballot box. Clean the inside of the bin first and then the outside. Wipe down the interior ballot divider and the box cover.

Remember to periodically rinse the cleaning cloth.

4. Stand the ballot box upright to clean the recessed, scanner housing.

Important: Make sure the power cord and the diverter motor connector are not damaged or dirty.

5. Turn the mounting pedestal upside down and clean the inside of the box.

Use a soft cleaning brush or feather duster to clear dust and debris. Use a brush to clean the diverter vane, the diverter motor and the controller circuit board for the ballot diverter. Do not to bend or damage any of the sensitive components contained in the diverter motor assembly.

6. Use a brush to clean debris and dust from the ballot chute assembly. Do not use liquids to clean the inside of scanner mounting pedestal. Re-assemble the unit after you finish cleaning.

Maintaining the Internal Printer

Open the door on the left side of the scanner to access the internal printer.

Replacing the Paper Roll

Check the Model 100 printer and change the paper roll, if necessary, for Election Day.

Note: A “time out waiting for paper” message may appear due to the internal printer being out of paper.

To replace the paper roll

1. Depress the mounting brackets on each side of the empty paper roll and lift the roll out of the scanner.
2. Remove the white plastic paper spool from the center of the empty paper roll and insert it into a new roll. Press out on the paper mounting brackets and insert the new roll into the printer.
3. Manually feed the paper or select **PAPER FEED** from the **ELECTION TEST** menu to position the printer paper.

Paper Roll

Mounting

Brackets

Mounting

Bracket

Printer Paper

Printer Spool

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Feeding the Paper

Use the following instructions to place blank space on the paper between reports or to advance the paper if the printer jams.

To advance the paper

1. From the **DIAGNOSTIC-TEST** menu, select **ELECTION TEST**.
2. Select **REPORTS** in the **ELECTION TEST** menu.
3. Select **PAPER FEED** to advance the printer paper.

OR

1. From the **POLLS CLOSED** menu, select **MORE**.
2. Press **PAPER FEED** to advance the printer paper.

Maintaining the Scanner Battery

The Model 100 uses a 12-volt, 7-amp lead acid battery to power the scanner in case of an electrical power failure. Depending on the age of your scanner, the battery is either an *Exide NP7-12* or *Powersonic PS-1270*. A fully charged battery can power an “active” scanner for up to one hour and an “idle” scanner for up to three hours. The machine is “active” when counting ballots or printing reports. Estimated battery life is five years.

To check the charge for your backup battery, open the **DIAGNOSTIC-TEST** menu and select **DIAGS**, then **MORE DIAGS**, and then select **BATTERY STATUS**. Refer to the following instructions for more information.

Battery Cautions

Important: You can use the backup battery under normal operating

conditions, in any orientation without danger of leaking. Removing the battery from the scanner exposes it to risks that are not present under normal operating conditions.

Warning: Shorting the battery terminals together is especially hazardous even if the battery is “discharged” or “dead.” Shorting the terminals can create sparks, melt wires, and possibly start a fire. Use extreme caution when handling the backup battery.

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Note: The Model 100 battery may be recycled. Please dispose of the battery properly.

Charging the Battery

Plug the power cord into the scanner and turn the power on for at least 12 hours to fully charge the battery. Check the condition of your power cord if the message “NO-AC” appears in the upper right quarter of the menu display after you turn the scanner on.

Removing and Replacing the Battery

Warning: Do not attempt to replace the battery in the Model 100 scanner. Only qualified ES&S technicians should replace the battery for this machine.

Warning: *Electrical Shock Danger.* Make sure that you unplug the AC power cord, turn the scanner key to the OFF position and removed it before replacing the battery.

Because you must remove the external cover of the Model 100 before you can

replace the battery, you should not attempt to replace the battery without proper training from ES&S. Removing the cover exposes the scanner's internal circuitry to damage. Always contact ES&S technical support before you attempt to replace a Model 100 backup battery.

To remove the battery

1. Open the Key Access Panel, locate the two screws for the Battery Access Panel and remove the screws.

Key Access Panel

Hinge

Battery

Access

Panel

Battery Access

Panel Screws (2ea)

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Black (Negative)

Terminal

Connector

2. Remove the two panels as one unit (with a hinge). Rotate the Key Access Panel towards the closed position until the panels clear the slots. Remove the panel to expose the battery.
3. Disconnect the red (positive) and black (negative) terminal connectors and lift the battery out of the scanner housing.
4. Inspect the Model 100 battery compartment. Make sure the terminal wires are

properly threaded through the terminal wire slot in order to protect the wires from crimping when you install a new battery.

Red (Positive)

Terminal

Connector

Battery

Terminal

Wires

Battery

Compartment

Slot for Terminal

Wires

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To install a new battery

1. Place a new battery into the battery compartment at the rear of the scanner.
2. Insert the red, positive wire from the terminal into the red battery connector on the battery. Then, insert the black wire into the black battery connector.

Warning: Use caution when you connect the battery to the scanner.

Inserting a scanner wire into the wrong battery port can cause a short circuit that can injure you or cause permanent damage to the scanner.

3. Insert the panel hinge into the scanner slots and reinstall the two access panels (Key and Battery Access Panels).
4. Rotate the Battery Access Panel forward until the two screw holes align with the nut plates on the main unit and insert the two screws.

5. Turn on the scanner for 24 hours to charge the battery then check the battery status to confirm that the battery holds a charge.

To replace a Model 100 fuse

Warning: *Electrical shock danger.* Do not replace the fuse for the Model 100 scanner unless you receive proper training from ES&S.

Only qualified ES&S technicians should attempt to replace the scanner fuse.

Scanner

Slots

50

1. To replace the AC line fuse, turn the scanner key to the OFF position, disconnect the power cord and remove the scanner from the Ballot Box. Then, remove the battery (See “Removing and Replacing the Battery” in this chapter).
2. Turn the scanner on its side, and remove the six Phillips head screws that connect the mounting rails to the stainless steel base plate. Set the mounting rails aside and set the scanner upright.
3. Remove the ballot cover above the ballot input path to expose the two Phillips head screws near the ballot insert slot. Remove the two Phillips head screws to open the scanner’s outer case.
4. The Model 100 AC power supply module contains a 3 AG, 2-amp Fast-Blow fuse. This power module is mounted on the left side of the stainless steel deck plate near the center of the scanner. You can recognize the power supply by the shield made out of stiff “fish” paper that surrounds the module. The fuse is mounted on the outside edge of the power supply module and can be accessed

without removing the fish paper shield.

1/16" Phillips

Head Screws

8/32" Phillips

Head Screws

Printer Fuse

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5. After you replace the fuse, check the fish paper shield to make sure it remains in place around the AC power supply module.

6. Replace the scanner's cover and secure the eight mounting screws (six mounting rails and two screws near the ballot insert slot). Route the cables from the cover assembly away from the paper drive mechanism.

Note: For more information about reassembling the scanner, see the "Removing and Replacing the Battery" section of this appendix.

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Appendix B: Understanding Reports

The Model 100 generates a variety of election results reports. Appendix B contains descriptions and examples of each available report. Familiarize yourself with the available report formats and types to generate the proper reports for your jurisdiction.

Results Reports

Select from the following report formats and types to configure reports for your

jurisdiction.

Report Format

ES&S or your jurisdiction's election programmer hard code available report formats into the Model 100 election definition. The report formats that you select (either media or summary) affect the Poll Reports and Precinct Reports generated directly from the Model 100. Reports printed in media format display candidate names, candidate vote totals and write-in totals. Reports printed in summary format display candidates, candidate vote totals, write-ins, undervote and overvote totals.

Report Types

Select from the following report types.

Status Report

The status report lists the number of ballots accepted by the scanner and categorizes the ballots by type. This report also displays the ballot counts each active precinct and the totals for your polling place.

Note: Counts of cross over votes are for statistical use and are not included in the ballot totals.

Poll Report

The poll report lists results for every contest voted and recorded on the scanner.

Precinct Report

The precinct report displays the results for every contest voted on the scanner broken down by precinct.

System Reports

The Model 100 can generate the following system reports.

Initial State Report

The initial state report is a descriptive list of system settings that automatically generates when you turn on the scanner. The report includes a list of election configuration settings if the election definition is loaded when you turn on the scanner.

Audit Log Report

The audit log lists all of the scanner events that occur from the time you load your election definition PC Card into the scanner to the time you remove the card after your election is complete. The audit log also displays the total number of write-in votes counted by the scanner as well as the number of accepted and rejected blank ballots, the number of overvoted ballots and the number of crossover ballots scanned.

Certification/Zero Report

The certification report, or zero report, prints automatically when you open the polls for voting. The zero report lists the date and time that the polls open followed by the vote count for all of your contests and blank signature lines for poll worker certification. The Model 100 allows you to print an additional certification report immediately after printing a results report.

Diagnostic Reports

The Model 100 prints the following diagnostic report types.

Configuration Report

The configuration report lists system and election configuration settings along with scanning parameters and cell window locations.

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Debug Report

The debug report displays low-level system settings. ES&S technical support uses the debug report to diagnose problems with the Model 100.

System Report

Select the System Report to print a System Audit Log.

Status Report

Status Report

10:57:34 06/19/2002

Wisconsin Certification

Wisconsin Open Primary 17/41

0001 POLLING PLACE 1 0001

Election Date: July 4, 2002

WARD 1

Ballot Types:

DEM REP WIS LIB NON XRV

0 1 0 0 0 0

Total: 1

WARD 2

Ballot Types:

DEM REP WIS LIB NON XRV

0 1 0 0 0 0

Total: 1

WARD 4

Ballot Types:

DEM REP WIS LIB NON XRV

0 1 0 0 0 0

Total: 1

WARD 5

Ballot Types:

DEM REP WIS LIB NON XRV

0 1 0 0 0 0

Total: 1

Grand Total

Ballot Types:

56

DEM REP WIS LIB NON XRV

0 1 0 0 0 0

Total: 1

Poll Report-Media Format

*** Voting Results Report ***

10:37:28 06/19/2002

Sample County

Test Election

0001 POLLING PLACE 1

Election Date: July 4, 2002

Total Number Voting: 50

Poll Voting Report

Total Ballots for All Precincts 50

Ballots for Code 000001-01-01 12

Ballots for Code 000002-01-01 14

Ballots for Code 000004-01-01 12

Ballots for Code 000005-01-01 12

GOVERNOR

WILLIAM A. (BILL) ALLAIN 18

BILLY M. DAVID 5

EVELYN GANDY 8

LONNIE C. JOHNSON 8

MIKE P STURDIVANT 5

Write In 4

AGRICULTURE AND COMMERCE COMMISSIONER

TROY MAJURE, JR. 19

JIM BUCK ROSS 18

CHARLES J.D. TILLMAN 8

Write In 3

CITY COUNCIL

Number to Vote For: 2

ELIZABETH M. VERTERANO 16

NICK DeROSA 23

CONNIE MANGINO 17

THOMAS P. COSTA 17

EUGENE DeCAPRIO 9

Write In 9

57

HIGH SCHOOL LEVY

FOR 12

AGAINST 27

Poll Report—Summary Format

*** Voting Results Report ***

10:37:28 06/19/2002

Sample County

Test Election

0001 POLLING PLACE 1

Election Date: July 4, 2002

Total Number Voting: 50

Poll Voting Report

Total Ballots for All Precincts 50

Ballots for Code 000001-01-01 12

Ballots for Code 000002-01-01 14

Ballots for Code 000004-01-01 12

Ballots for Code 000005-01-01 12

GOVERNOR

WILLIAM A. (BILL) ALLAIN 18

BILLY M. DAVID 5

EVELYN GANDY 8

LONNIE C. JOHNSON 8

MIKE P STURDIVANT 5

Write In 4

Over Votes 1

Under Votes 1

.....

Total Votes 50

AGRICULTURE AND COMMERCE COMMISSIONER

TROY MAJURE, JR. 19

JIM BUCK ROSS 18

CHARLES J.D. TILLMAN 8

Write In 3

Over Votes 0

Under Votes 2

.....

Total Votes 50

CITY COUNCIL

Number to Vote For: 2

ELIZABETH M. VERTERANO 16

58

NICK DeROSA 23

CONNIE MANGINO 17

THOMAS P. COSTA 17

EUGENE DeCAPRIO 9

Write In 9

Over Votes 0

Under Votes 2

.....

Total Votes 100

Precinct Report—Summary Format

*** Voting Results Report ***

10:48:54 06/19-2002

Wisconsin Certification

Wisconsin Open Primary 17/41

0001 POLLING PLACE 1 0001

Election Date: July 4, 2002

Total Number Voting: 4

Precinct Voting Report

WARD 1

Total Ballots 1

Ballots for Code00001-01-01

PARTY PREFERENCE

DEMOCRAT 0

REPUBLICAN 1

WISCONSIN GREEN 0

LIBERTARIAN 0

Over Votes 0

Under Votes 0

.....

Total Votes 1

(REP) GOVERNOR

CHUCK HALE 1

Write In 0

Over Votes 0

Under Votes 0

.....

Total Votes 1

(REP) LIEUTENANT GOVERNOR

MICK FLEETWOOD 0

Write In 0

Over Votes 0

Under Votes 1

.....

59

Total Votes 1

NONPARTISAN JUDICIAL RACE

JUDICIAL CANDIDATE 1 1

Over Votes 0

Under Votes 0

.....

Total Votes 1

Initial State Report

10:57:25 06/19/2002

ELECTION DEFINITION LOADED UNIT: 3159

CPU 386 QNX_speed 361

CPU total memory 3712K

Application Memory 2496K

Communication utilities available

PCMCIA modems supported

TCP/IP based communications supported

*** Initial State Report ***

10:57:25 07/15/2003

Firmware Version: 5.1.0.0

Machine ID: 3159

Wisconsin Certification

Wisconsin Open Primary 17/41

0001 POLLING PLACE 1 0001

Election Date: July 4, 2003

Maximum Number of Types: 6

Number of Precincts: 4

Number of Ballot Face Styles: 24

Audit Log Entries: 34/21043

System Configuration:

Election Results Printing: Enabled

Election Results Transferred: YES

Diverter Installed: YES

Unreadable Marks Setting: Accept

Report Type: SUMMARY

Ability to ReOpen Polls: YES

Report Format: Poll Report

Report By Rotation: NO

Election Configuration:

Ballots by Style: NO

Overvoted Ballots: Query

Blank Ballots: Query

Cross-over Ballots: Query

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Single Over-Vote: NO

Divert Blanks to Writein Bin: NO

Response Type: OVAL

Use Separate Non Party Type: YES

Ballot Size: 14 Inches by 36 Rows

Ballot Sides Defined: 2

Modem Info

Modem Phone #: 555-5555

Server IP: 192.168.1.5

M100 IP: 192.168.2.11

MAC (EID): 0060 D618 OABE

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Audit Log Report

*** Audit Log Report ***

11:08:09 06/19/2002

System Events

Last Clock Change: 15:10:11 12/18/2001

Last Power On: 11:02:49 06/19/2002

Last Polls Open: 11:04:16 06/19/2002

Number of System Halts: 62

Ballot Accounting

Precinct:

WARD 3

Total Blank Accept: 0

Total Blank Reject: 0

Total Overvote Accept: 0

Total Overvote Reject: 0

Total Crossover Accept: 0

Total Crossover Reject: 0

Total Marginal Accept: 1

Total Marginal Reject: 0

Total Write-ins: 0

Total Undervote Accept 0

Total Undervote Reject 0

Master Accounting:

Total Blank Accept: 0

Total Blank Reject: 0

Total Overvote Accept: 0

Total Overvote Reject: 0

Total Crossover Accept: 0

Total Crossover Reject: 0

Total Marginal Accept: 1

Total Marginal Reject: 0

Total Write-ins: 0

Total Undervote Accept 0

Total Undervote Reject 0

11:02:49 06/19/2002

ELECTION DEFINITION LOADED UNIT: 3159

11:03:05 06/19/2002

User Event: Open Polls

11:03:09 06/19/2002

SUPERVISOR SWITCH DISENGAGED

62

11:03: 09 06/19/2002

DIAGNOSTICS CHECK COMPLETED

11:03:10 06/19/2002

COUNTERS CLEARED

11:04:16 06/19/2002

Polls Opened

11:04:53 06/19/2002

FIRST BALLOT PROCESSED

Zero/Certification Report

*** Zero Totals Report ***

11:03:10 06/19/2002

SAMPLE COUNTY

TEST ELECTION

POLLING PLACE 1

Election Date: November 11, 2000

Total Number Voting: 0

Poll Voting Report

GOVERNOR

WILLIAM A. (BILL) ALLAIN 0

BILLY M. DAVID 0

EVELYN GANDY 0

LONNIE C. JOHNSON 0

MIKE P STURDIVANT 0

Write In 0

Over Votes 0

Under Votes 0

Total Votes 0

AGRICULTURE AND COMMERCE COMMISSIONER

TROY MAJURE, JR. 0

JIM BUCK ROSS 0

CHARLES J.D. TILLMAN 0

Write In 0

Over Votes 0

Under Votes 0

Total Votes 0

CITY COUNCIL

Number to Vote For: 2

ELIZABETH M. VERTERANO 0

NICK DeROSA 0

CONNIE MANGINO 0

THOMAS P. COSTA 0

EUGENE DeCAPRIO 0

Write In 0

63

Over Votes 0

Under Votes 0

Total Votes 0

---Report Continued---

WE, THE UNDERSIGNED, DO HEREBY CERTIFY
THAT THE ABOVE RESULTS ARE A TRUE AND
ACCURATE ACCOUNT OF ALL BALLOTS COUNTED
AND THAT ALL COUNTERS WERE ZERO (0)
WHEN THE POLLS OPENED AND THAT THE
ELECTION WAS HELD IN ACCORDANCE WITH
THE LAWS OF THE STATE.

ELECTION JUDGE

ELECTION JUDGE

ELECTION JUDGE

ELECTION JUDGE

64

Configuration Report

*** Configuration Report***

11:10:10 06/19/2002

Firmware Version: 5.1.0.0

Machine ID: 3161

Wisconsin Certification

Wisconsin Open Primary 17/41

0002 POLLIN PLACE 2 0002

Election Date: July 4, 2002

Maximum Number of Types: 6

Number of Precincts: 1

Number of Ballot Face Styles: 6

Audit Log Entries: 14/20857

System Configuration:

Election Results Printing: Enabled

Election Results Transferred: NO

Diverter Installed: YES

Unreadable Marks Setting: Reject

Report Type: Summary

Ability to Reopen Polls: YES

Report Format: Poll Report

Report by Rotation: NO

Election Configuration:

Ballots by Style: NO

Overvoted Ballots: Query

Blank Ballots: Query

Cross-over Ballots: Query

Single Overvote: NO

Divert Blanks to Writein Bin: NO

Response Type: OVAL

Use Separate Non Party Type: YES

Ballot Size: 14 Inches by 36 Rows

Ballot Sides Defined: 2

Modem Information:

Modem Phone #: 333-4576

Server Phone #: (if applicable)

Modem MAC: (if applicable)

Modem Server IP address: (if applicable)

Scanning Parameters:

Top DAC Value: 80

Bottom DAC Value: 80

65

Ballot Size: 14 Inches x 36 Rows

Debug Report

*** DEBUG REPORT ***

11:09:48 06/19/2002

Program Version: 5.1.0.0

OS Version: 4.22

Errno: 35

Errno String: No message of desired type

Memory Available: 2860

Largest Mem Block: 2844

Heap Check: Good Heap

Counter Size: 2252 Bytes

Election Definition Size: 6308 Bytes

System Audit Log Report

*** System Audit Log ***

11:10:29 06/19/2002

Last Clock Change: 15:10:11 12/18/2001

Last Power On: 11:02:49 06/19/2002

Last Polls Open: 11:04:16 06/19/2002

Number of System Halts: 62

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Appendix C: Understanding System Messages

This appendix lists all system messages. In addition to the message itself, the scanner beeps to provide an audible cue that a message requires attention from a poll worker. If you find your message in this appendix and still require assistance, please contact your election administrator to schedule technical service or a backup machine. Election administrators may contact ES&S at 1-800-247-8683.

System Error Recovery

If you encounter the 'SYSTEM ERROR' message, use the following process to continue counting ballots.

1. Turn the key to the OFF position to turn off the tabulator, and then remove the PC Card.

2. Make a duplicate copy of the PC Card.
3. Send the duplicate card with the Model 100 to ES&S for testing.
4. Replace the Model 100 with the back-up Model 100 tabulator assigned to your polling place.
5. Insert the original PC Card with the election definition
6. Turn the key to OPEN/CLOSE POLL and continue counting ballots.

Understanding Text Messages

Accept Ballots For Precinct

Cause: The “Accept Ballots For Precinct” message appears when the Model 100 enables a precinct that has been programmed in the election definition card, but marked as inactive.

Solution: Ballots for the enabled precinct are counted and cannot be canceled. No response required.

Attempt Send Results

Cause: This message appears when the Model 100 locates a TCP/IP protocol, CDPD, or landline network attempts to send election results.

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Solution: No response required.

Audit Log Full

Cause: This message appears if audit log is full. There is a limited capacity for audit log entries stored to the PC Card. Exceeding this limit either: 1) prevents the scanner from entering Polls Open mode, or 2) causes the scanner to stop counting ballots. If the Audit Log exceeds its capacity during voting, the scanner defaults to a read-only mode. This means that no additional information is added to the PC Card; the Polls Open mode is not allowed.

Solution: A new PC Card is required to continue counting ballots. Select **Previous** to return to

the Main menu. Remove the original PC Card and insert a new card programmed with a duplicate election definition. Return to the menu and function where the error occurred and contact your system administrator.

Ballot Jammed

Cause: This message appears if a ballot becomes trapped in the scanner's read area.

Solution: Check the back of the scanner to make sure that nothing blocks the ballot path.

Contact ES&S for assistance if you cannot resolve the problem.

Blank Ballot Accepted

Cause: This message appears after the scanner accepts a blank ballot.

Solution: No response required.

Blank Ballot Returned

Cause: This verification appears when the scanner returns a blank ballot to the voter.

Solution: No response required.

Blocked Sensor Continuous

Cause: This message appears if the scanner detects an obstruction on part of the CCD array Read-Head, or a contiguous vertical line on the ballot.

Solution: First, make sure the machine is not in vote mode. Then try feeding clean, blank ballots into the scanner to remove any possible obstruction. If the error continues, contact your election administrator to schedule technical service and a back-up machine.

Counter Block Failed CRC

Cause: This message appears if the counter block fails a cyclic redundancy check (CRC). As the election progresses, data is copied to the PC Card in "counter blocks" of data. The CRC is a safety check that the scanner performs to ensure proper copying of data to the card.

Solution: The PC Card may be corrupt. Try a different card. If the message continues, contact your election administrator to schedule technical service.

Counters Are Full

Cause: This message appears if the scanner blocks on the PC Card are full and there is no room to write further election data to the card. Results from the ballot currently inserted in the machine are not added to the scanner's running total.

Solution: The system halts when counters are full. Turn the power switch OFF and then back ON to reboot the system. Keep the PC Card loaded in the scanner. If the error continues, contact your election administrator to schedule technical service.

Counters Are In Overflow

Cause: The counter has exceeded its storage limit. If this error occurs, the election results stored to the scanner's DRAM are corrupt, although the scanner values on the card may be correct.

Solution: This error causes a system halt. Reboot the system by turning the power switch OFF and then back ON. Keep the PC Card loaded in the scanner. If the error persists, contact your election administrator to schedule technical service and locate a backup tabulator.

Counters Cannot Hold Next Count

Cause: There is not enough space left within the counters to store the count for the current race.

Solution: This condition causes a system halt. Reboot the system by turning the power switch OFF and then back ON. Leave the PC Card loaded in the scanner. If the error persists, contact your election administrator to schedule technical service and request a backup tabulator.

Counters Cleared

Cause: This message appears after the DRAM counters are successfully cleared in the election definition.

Solution: No response required.

Cross Voted Ballot Accepted

Cause: This is a verification message that confirms that a cross-voted ballot has been accepted by the Model 100.

Solution: This message only appears with straight party or pick-a-party ballots, when a voter has voted in more than one party. No response required.

Cross Voted Ballot Returned

Cause: This message appears when the scanner returns a cross-voted ballot to the voter.

Solution: This message only appears with straight party or pick-a-party ballots, when a voter has voted in more than one party. Return the ballot to the voter for review or verification.

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Diverter Control Error

Cause: This message appears if the scanner fails to change the diverter position after a ballot has been fed.

Solution: Retry and contact ES&S if the problem persists.

Diverter Not Detected

Cause: The scanner cannot detect the diverter on a second attempt.

Solution: Contact your election administrator to schedule technical service and request a backup tabulator.

Diverter Not Found

Cause: This message appears if the election definition loaded into the Model 100 is programmed for a ballot box with a diverter unit, but no diverter unit is detected.

Solution: Contact your election administrator to schedule technical service and request a backup scanner.

DRAM Counter Space Bad

Cause: This message appears if the scanner encounters a problem with the DRAM memory

section that stores the election results.

Solution: Contact your election administrator to schedule technical service and request a backup scanner.

Election Card Recovered In The Machine

Cause: This verification message indicates that the inserted card been opened and removed from another machine, while still in the vote mode.

Solution: No response required.

Election Certified – Card In Rom Mode

Cause: The election has been certified and the card is closed. You may remove the card from the scanner after viewing this message.

Solution: No response required.

Election Definition Failed CRC

Cause: This message indicates that the election definition failed the CRC.

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Solution: The PC Card may be corrupt and a new PC Card is required. If the message continues, contact your election administrator to schedule technical service.

Election Totals Cleared

Cause: This verification message indicates that election totals are set to zero.

Solution: No response required.

Error Accessing NVRAM

Cause: This message appears if the scanner encounters a problem accessing the NVRAM (Non-Volatile Random Access Memory).

Solution: Contact your election administrator to schedule technical service and request a backup scanner.

Error Getting Machine ID

Cause: This message appears if the scanner has a problem retrieving the machine identification number from FLASH memory.

Solution: Contact your election administrator to schedule technical service and request a backup scanner.

Error Reading Ballot Retry Ballot Black Check - <code> (x)

Cause: This message appears if the scanner cannot read one of the black boxes printed at the top and bottom of each ballot column. The displayed <code> will be one of the following: UT – ballot fed face up, top first; UB – ballot fed face down, bottom first; DT – ballot fed face down, top first; DB – ballot fed face down, bottom first. The (x) indicates the letter, A-F, that appears in the error message and identifies which black check the scanner failed to read.

Solution: Feed the ballot into the scanner in a different orientation. If the mark still does not register, use compressed air to clean the Model 100 optical sensors. If the scanner still does not read, manually darken the black check mark with a sharpie and scan the ballot again.

Error Reading PCMCIA Card

Cause: This message appears if the scanner encounters a problem reading a block of data from the PC Card. The election results stored to the scanner's DRAM may be corrupt.

Solution: This condition causes a system halt. Reboot the system by turning the scanner OFF and then back ON with the PC Card inserted. If the error continues, attempt to restart the scanner with a new PC Card. If there are still problems, contact your election administrator to schedule technical service and request a backup scanner.

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Error Reading System Audit Log

Cause: This message appears if an error occurs while the scanner reads the system Audit Log in NVRAM (Non-Volatile Random Access Memory).

Solution: Allow the system to initialize the System Audit Log with default values. The system

automatically initializes the log to default settings and displays a status message.

Error Seeking On PCMCIA Card

Cause: This message appears if the scanner encounters a problem while seeking a specific offset on the PC Card.

Solution: This condition causes a system halt. Reboot the scanner by turning it OFF and then back ON with the original PC Card inserted. If the error persists, attempt to reboot the system with a new PC Card. Turn the system off and insert a new card programmed with a duplicate election definition. Turn the system back on. If the continues, contact your election administrator to schedule technical service and request a backup scanner.

Error Setting Real Time Clock

Cause: This message appears if you encounter a problem setting the real-time clock.

Solution: Contact your election administrator to schedule technical service and request a backup scanner.

Error Writing PCMCIA Card

Cause: This message appears if the scanner encounters a problem while writing data to the PC Card. This condition can corrupt election results if the error occurs while your scanner is open for voting.

Solution: This error causes a system halt. Turn the scanner OFF and then back ON, without removing the PC Card, to re-initialize your election. If the error continues, try to reboot the system using a new PC Card with a duplicate election definition. If there are still problems, contact your election administrator to schedule technical service and request a backup scanner.

Error Writing System Audit Log

Cause: This message appears if an error occurs while the scanner is writing the system audit log in NVRAM (Non-Volatile Random Access Memory).

Solution: Allow the system to initialize the System Audit Log with default values. The system automatically initializes the log to default settings and displays a status message.

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Error Writing To The Print Device

Cause: This message displays if the system encounters a printer processing error.

Solution: Contact your election administrator to schedule technical service and request a backup scanner.

Event Log Failed CRC

Cause: The Event Log failed the Cyclic Redundancy Check (CRC). A CRC is a safety check the counter performs to ensure that data is being copied properly.

Solution: This condition indicates that your PC Card may be corrupt; either reprogram the same PC Card or try a different card programmed with a duplicate election definition. If the error continues, contact your election administrator to schedule technical service and request a backup scanner.

Factory Parameters Corrupt-Reset

Cause: The factory parameter values in NVRAM do not match the CRC calculation. This error only occurs during the boot process.

Solution: Contact your election administrator for assistance.

Incompatible PCMCIA Card Format

Cause: This message indicates that the PC Card format is incompatible with the current application code version.

Solution: Contact your election administrator to schedule technical service.

Incompatible System Log Format

Cause: This message indicates that the System Log format is incompatible with the current application code version.

Solution: Contact your election administrator to schedule technical service.

Invalid Instruction

Cause: This is an internal error message.

Solution: Contact your election administrator to schedule technical service.

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Invalid Memory Reference

Cause: This is an internal error message.

Solution: Contact your election administrator to schedule technical service.

Invalid Parity Error

Cause: This is an internal error message.

Solution: Contact your election administrator to schedule technical service.

Invalid Seq-Type-Split (X-X-X)

Cause: This message indicates that the Sequence-Type-Split code on an inserted ballot does not match the codes defined in the election definition. The 'X' values will be the Sequence-Type-Split code of the scanned ballot.

Solution: Insert a ballot with the correct Sequence-Type-Split code. If the error occurs again, contact your election administrator to schedule technical service.

Invalid Sub Routine

Cause: This is an internal error message.

Solution: Contact your election administrator to schedule technical service.

Memory Allocation Error

Cause: This message indicates that the scanner did not successfully allocate system memory.

Solution: This condition may halt the system. Even if the scanner does not halt, contact your election administrator to schedule technical service and request a backup scanner.

Menuing System Error

Cause: This message appears when the scanner encounters a system error.

Solution: This condition may halt the system. Even if the scanner does not halt, contact your election administrator to schedule technical service and request a backup scanner.

Missing Precinct Counter Block

Cause: This message appears if the scanner cannot locate the race counter block for a given race.

Solution: Contact your election administrator to schedule technical service.

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More than one party has votes. Votes In Party Contests Will Be Ignored

Cause: This condition only occurs during an open primary election. This message indicates that a party preference selection could not be established and the voter marked contests affiliated with more than one party,

Solution: If you programmed your election definition to “Query upon Occurrence” of a crossvoted ballot, the poll worker is responsible for accepting or rejecting the ballot. If you programmed the election definition to “Always Reject” cross-voted ballots, the voter must remark and resubmit the ballot. If the error continues, contact your election administrator to schedule technical service.

Note: This error message does not appear if you programmed the Model 100 to “Always Accept” cross-voted ballots.

NO BACK IMAGE DETECTED/Please See Election Official

Cause: The scanner displays this message if the Model 100 does not detect a contest on the back of the ballot when the ballot’s sequence-type-split code indicates that information should appear on the back of the ballot.

Solution: Contact your election administrator.

One Contest Has Too Many Votes

Cause: This message appears if the number of valid marks detected in the voting area for a contest exceeds the number of votes allowed for that contest.

Solution: If you programmed your election definition to “Query upon Occurrence” of an overvoted ballot, the poll worker must review the ballot and then decide whether to accept or reject the voter’s selections. If you programmed the election definition to “Always Reject” overvoted ballots, the voter must edit and resubmit the ballot. If this message appears for a ballot that does not contain an overvoted contest, contact your election administrator to schedule technical service.

Note: This error message does not appear if you programmed the Model 100 to “Always Accept” overvoted ballots.

One Contest Has Too Many Votes (RACE TITLE)

Cause: This message appears if the number of valid marks detected on the ballot for a contest exceeds the number of votes allowed for that contest. This message appears if you program the election definition to display the contest title along with the error condition.

Solution: If you programmed your election definition to “Query upon Occurrence” of an overvoted ballot, the poll worker must review the ballot and then decide whether to accept or

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reject the voter’s selections. If you programmed the election definition to “Always Reject” overvoted ballots, the voter must edit and resubmit the ballot. If this message appears for a ballot that does not contain an overvoted contest, contact your election administrator to schedule technical service.

Note: This error message does not appear if you programmed the Model 100 to “Always Accept” overvoted ballots.

(X) Races Have Too Many Votes

Cause: The Model 100 displays this message if the number of valid marks detected for more

than one contest on the ballot exceeds the number allowed votes for each of those contests.

Solution: If you programmed your election definition to “Query upon Occurrence” of an overvoted ballot, the poll worker must review the ballot and then decide whether to accept or reject the voter’s selections. If you programmed your election definition to “Always Reject” overvoted ballots, the Model 100 returns the ballot to the voter who must edit and resubmit the ballot. If the error appears for a ballot that does not contain an overvoted contest, contact your election administrator to schedule technical service.

Note: This error message does not appear if you programmed the Model 100 to “Always Accept” overvoted ballots.

(X) Races Have Too Many Votes Including RACE TITLE

Cause: This message appears if the number of valid marks detected for more than one contest exceeds the number of votes allowed for each of those contests. This message appears if you program the election definition to display the contest title along with the error condition.

Solution: If you programmed your election definition to “Query upon Occurrence” of an overvoted ballot, the poll worker must review the ballot and then decide whether to accept or reject the voter’s selections. If you programmed your election definition to “Always Reject” overvoted ballots, the Model 100 returns the ballot to the voter who must edit and resubmit the ballot. If the error appears for a ballot that does not contain an overvoted contest, contact your election administrator to schedule technical service.

Note: This error message does not appear if you programmed the Model 100 to “Always Accept” overvoted ballots.

OS Shell Command Fail

Cause: This message appears if system call in the Model 100 code fails to function correctly.

Solution: This condition may cause a system halt. Even if the system remains in operation, contact your election administrator to schedule technical service and request a backup

scanner.

Overvoted Ballot Accepted

Cause: This verification message appears when the scanner accepts a ballot that contains an overvoted contest.

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Solution: No response required.

Overvoted Ballot Returned

Cause: The Model 100 displays this message when the scanner returns a ballot that includes an overvoted contest to the voter.

Solution: No response required.

Party Preference Race Missing

Cause: This message appears if the scanner processes a ballot that includes a party preference contest and the selected party preference is not detected in the election definition.

Solution: You may require a new election definition. Contact your election administrator for assistance.

PCMCIA Card Not Inserted

Cause: This message appears if the PC Card is removed while the scanner attempts to access the card.

Solution: This condition causes a system halt and may corrupt the data stored to the PC Card. Attempt to re-initialize the card by turning the system off, re-inserting the card, and turning the power back on. If this action fails, you may require a new PC Card. Try the same procedure with a different PC Card programmed with a duplicate election definition. If the error continues, contact your election administrator to schedule technical service and request a backup scanner.

PCMCIA Driver Missing

Cause: The message appears if the scanner cannot access the QNX/PC Card driver.

Solution: This condition causes a system halt. Contact your election administrator to schedule technical service and request a backup scanner.

PCMCIA Header Section Failed CRC

Cause: This message appears if the header section of the PCMCIA card fails the CRC.

Solution: This message indicates that your PC Card may be corrupt. Try a different card. If the error continues, contact your election administrator to schedule technical service.

Possible Bad Sensor

Cause: This message appears if the scanner detects an unacceptably long vertical line on a ballot.

Solution: Retry the ballot. If the problem continues, contact the election supervisor.

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Possible Blocked Sensor

Cause: This message appears if the scanner detects an intermittent obstruction on part of the Read-Head, an intermittent fault in the CCD array Read-Head, or a non-contiguous vertical line on the ballot.

Solution: Make sure that your scanner is not in the vote mode and then attempt to scan entering clean, blank ballots to remove possible obstructions. If the error continues, contact your election administrator to schedule technical service and request a backup scanner.

Printer Driver Missing

Cause: This message appears if the Model 100 fails to detect the printer driver.

Solution: Contact your election administrator to schedule technical service and request a backup scanner.

Race Results Cross-Check Fail

Cause: The Model 100 displays this message if the race result counters fail the system crosscheck

(between the precinct and master counters). This condition indicates that the election results stored in the system's DRAM are corrupt. The vote count results stored on the PC Card may be corrupted.

Solution: This condition causes a system halt. Reboot the system by turning the power switch OFF and then back ON to re-initialize the PC Card. If the system reads the card correctly, continue with the election process. If the error continues, contact your election administrator for a new card.

Note: The Model 100 does not record results from the ballot scanned when this error occurs. You must remove and rescan the ballot.

Status Results Cross-Check Fail

Cause: This message appears if the status counters fail the cross-check (between the precinct and master counters). This condition indicates that the election results stored in DRAM are corrupt.

Solution: This condition causes a system halt. Reboot the system by turning the power switch OFF and then back ON to re-initialize the PC Card. If the system reads the card correctly, continue with the election process. If the error appears again, contact your election administrator for a new card.

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Note: You must remove and rescan the ballot that was in the scanner when the error occurred.

System Audit Log Failed CRC

Cause: This message appears if the System Audit Log stored to NVRAM fails the CRC. The software attempts to initialize the log with default values. If this operation is unsuccessful, the system shuts down.

Solution: Allow the system to initialize the System Audit Log using default values. If the initialization shuts down the system using default values, contact your election administrator

to schedule technical service and request a backup scanner.

System Halted

Cause: The system has halted.

Solution: Restart the counter by turning the scanner key to the OFF position and then back ON. If the scanner does not restart, contact your election administrator to schedule technical service and request a backup scanner.

Unable To Initialize Scanning System-System Halted

Cause: This message indicates that an error occurred when your Model 100 attempted to automatically initialize the machine scanner board.

Solution: Contact ES&S.

Unable To Load Keypad Server-System Halted

Cause: This message appears if the scanner fails to detect the keypad server.

Solution: Contact ES&S.

Unable To Load Signal Handlers-System Halted

Cause: This message appears if the scanner fails to detect signal handlers.

Solution: Contact ES&S.

Unable To Load Speaker Server-System Halted

Cause: This message appears if the scanner fails to detect the speaker server.

Solution: Contact ES&S.

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Unable To Update Counters

Cause: This message appears if the scanner software fails to update the counters after you scan a ballot.

Solution: This condition causes a system halt and requires a new PC Card to resolve. Turn off the scanner, insert a new PC Card with a duplicate election definition and turn the scanner

back on. If the problem continues, contact your election administrator to schedule technical service and request a backup scanner.

Unable To Close Election

Cause: This message appears if scanner software fails to access the PC Card when you attempt to close the election.

Solution: Check the PC Card for proper installation. If the card is installed properly, the card may be defective or another hardware fault may have occurred. If the problem continues, contact your election administrator to schedule technical service and request a backup scanner.

Unable To Read PCMCIA Counter Block

Cause: This message appears if the system software fails to read the PC Card counter block.

Solution: Check the PC Card for proper installation. If the card is installed properly, the card may be defective or another hardware fault may have occurred. If the problem continues, contact your election administrator to schedule technical service and request a backup scanner.

Unidentified Mark – Check Your Ballot

Cause: This message appears if the scanner detects a mark that meets the minimum threshold for recognition by the system, but is not dark enough for the scanner to read as a valid vote.

Solution: Re-mark or darken the marks and rescan the ballot.

Unknown Error

Cause: This message appears if the Model 100 detects an internal system error.

Solution: Contact your election administrator to schedule technical service.

Voltage Too Low

Cause: This message appears if the scanner's battery voltage falls below the acceptable operating level.

Solution: Plug the terminal into a 120-volt A/C outlet. For more information about charging the scanner battery, see “Charging the Battery” in Chapter 2. If the problem persists, contact your election administrator to schedule technical service and request a backup scanner.

Voting Continued Prev Unit

Cause: This verification message appears if you successfully transfer a PC Card from one Model 100 to another during active voting. The Model 100 also displays the machine ID for the scanner that was previously using the card.

Solution: No response required.

Warning-The unit is on Battery Power

Cause: This message appears if the AC connection in the back of the machine has been unplugged or if the scanner’s outlet fails to receive power.

Solution: Check the power cord connections to the scanner and wall outlet. Contact the supervisor for your polling place if the scanner continues to run on battery power after you properly plug it in.

Working Parameters Corrupt-Reset

Cause: This message appears if the working parameter values stored to the scanner’s NVRAM do not match those calculated during the CRC. This error can only occur during the scanner’s boot sequence

Solution: Contact your election administrator to schedule technical service and request a backup scanner.

XBIN Directory Not Found

Cause: This message appears if a required XBIN directory does not exist because the binary executable image block required for TCP/IP or PSMCIA modems was not programmed to the election definition card, or the card could not be started successfully by the resource manager.

Solution: Contact your election administrator to schedule technical service and request a backup scanner.

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Verification Messages

The following verification messages are self-explanatory, descriptive messages that the Model 100 displays in response to a specific action. Verification messages do not require action from a poll worker.

- Aborted Printing
- Counters Cleared
- Current Unit
- Diagnostic Check Completed
- Election Definition Loaded
- Election Definition Unloaded
- Election Results Sent
- Entered Ballot Test Mode
- Exited Ballot Test Mode
- First Ballot Processed
- No Election Card
- Opening Polls
- Polls Closed
- Polls Opened
- Power On

- Real Time Clock Set
- Switched to AC Power
- Switched to Battery Power
- Total Ballots Accepted
- Voting Enabled

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Understanding Numeric Messages

100 – MISSED ORIENTATION MARKS/Turn Ballot Over and Try Again

Cause: The scanner failed to detect the orientation of a ballot.

Solution: Remove the ballot from the scanner and attempt to feed the ballot in a different orientation. If the error continues, contact your election administrator to schedule technical service and request a backup scanner.

101 – MISSED TIMING MARKS/ Turn Ballot Over and Try Again

Cause: The scanner failed to detect one or more marks that appear in the ballot's timing track.

Solution: Remove the ballot and reinsert it into the scanner. If the error persists, contact your election administrator to schedule technical service and request a backup scanner.

102 – NO DATA FOUND/Please Re-insert Ballot After Beeps

Cause: The scanner failed to locate the leading edge of an inserted ballot.

Solution: Remove and reinsert the ballot. If the error continues, contact your election administrator to schedule technical service and request a backup scanner.

103 – SYSTEM ERROR/Please See Election Official

Cause: The scanner encountered an unrecoverable error occurred in the operating system.

Solution: Contact your election administrator to schedule technical support and request a backup scanner.

104 – ORIENTATION SKIP ERROR

Cause: The scanner failed to read the black checks on the leading edge of a ballot.

Solution: Remove and reinsert the ballot. If the error persists, contact your election administrator to schedule technical service and request a backup scanner.

105 – SYSTEM ERROR/Please See Election Official

Cause: The scanner encountered an unrecoverable error in the operating system..

Solution: Contact your election administrator to schedule technical support and request a backup scanner. Do not use the scanner until an ES&S service technician identifies and repairs the problem.

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106 – MISSED TIMING MARKS/ Turn Ballot Over and Try Again

Cause: The scanner failed to properly read one or more marks from a ballot's timing track

Solution: Remove and reinsert the ballot. If the error persists, contact your election administrator to schedule technical service and request a backup scanner.

107 – BALLOT ERROR: INVALID CC SEQUENCE

Cause: The scanner failed to read the correct sequence code from a ballot.

Solution: Remove and reinsert the ballot. If the error persists, contact your election administrator to schedule technical service.

108 – BALLOT ERROR: INVALID CC TYPE

Cause: The scanner failed to recognize the type code for a ballot.

Solution: Remove and reinsert the ballot. If the error persists, contact your election administrator to schedule technical service.

109 – BALLOT ERROR: INVALID CC SPLIT

Cause: The scanner failed to recognize a ballot's split code.

Solution: Remove and reinsert the ballot. If the error persists, contact your election

administrator to schedule technical service.

110 – SYSTEM ERROR/Please See Election Official

Cause: The scanner encountered an unrecoverable error in the operating system.

Solution: Turn off the scanner and remove it from the polling area. Contact your election administrator to schedule scanner maintenance. Do not use the scanner again until an ES&S technician repairs the Model 100.

111 – SYSTEM ERROR/Please See Election Official

Cause: The scanner encountered an unrecoverable error in the operating system.

Solution: Turn off the scanner and remove it from the polling area. Contact your election administrator to schedule scanner maintenance. Do not use the scanner again until an ES&S technician repairs the Model 100.

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112 – SYSTEM ERROR/Please See Election Official

Cause: The scanner encountered an unrecoverable error in the operating system.

Solution: Turn off the scanner and remove it from the polling area. Contact your election administrator to schedule scanner maintenance. Do not use the scanner again until an ES&S technician repairs the Model 100.

113 – SYSTEM ERROR/Please See Election Official

Cause: The scanner encountered an unrecoverable error in the operating system.

Solution: Turn off the scanner and remove it from the polling area. Contact your election administrator to schedule scanner maintenance. Do not use the scanner again until an ES&S technician repairs the Model 100.

114 – SYSTEM ERROR/Please See Election Official

Cause: The scanner encountered an unrecoverable error in the operating system.

Solution: Turn off the scanner and remove it from the polling area. Contact your election

administrator to schedule scanner maintenance. Do not use the scanner again until an ES&S technician repairs the Model 100.

115 – MISSED BACK ORIENTATION MARK/Turn Ballot Over and Try Again

Cause: The counter failed to read an orientation mark on one side of the ballot.

Solution: Turn the ballot over and reinsert it into the scanner. If the scanner still cannot read the orientation mark, contact your election administrator to schedule technical service and request a backup Model 100.

116 – SYSTEM ERROR/Please See Election Official

Cause: The scanner encountered an unrecoverable error in the operating system.

Solution: Turn off the scanner and remove it from the polling area. Contact your election administrator to schedule scanner maintenance. Do not use the scanner again until an ES&S technician repairs the Model 100.

117 – SYSTEM ERROR/Please See Election Official

Cause: The scanner encountered an unrecoverable error in the operating system.

Solution: Turn off the scanner and remove it from the polling area. Contact your election administrator to schedule scanner maintenance. Do not use the scanner again until an ES&S technician repairs the Model 100.

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118 – SYSTEM ERROR/Please See Election Official

Cause: The scanner encountered an unrecoverable error in the operating system.

Solution: Turn off the scanner and remove it from the polling area. Contact your election administrator to schedule scanner maintenance. Do not use the scanner again until an ES&S technician repairs the Model 100.

119 – MULTIPLE BALLOTS DETECTED/Please Re-insert One Ballot After Beeps

Cause: The Model 100 detected more than one ballot in the scanner read area.

Solution: Remove ballots from the read area and reinsert them one at a time. If the error occurs repeatedly, contact your election administrator to schedule technical service and request a backup scanner.

120 – DIVERTER NOT INITIALIZED

Cause: The Model 100 failed to initialize the ballot box diverter. The scanner does not sort write-in ballots properly if the diverter fails.

Solution: Make sure the scanner is correctly mounted to the ballot box. If the error persists, contact your election administrator to schedule technical service and a back-up machine or ballot box.

121 – DIVERTER DETECTION ERROR

Cause: The scanner failed to stop the diverter motor in the ballot box from running after scanning a ballot.

Solution: Contact your election administrator to schedule technical service.

122 – DIVERTER NOT DETECTED

Cause: The scanner failed to detect the ballot diverter during a diverter test.

Solution: Contact your election administrator to schedule maintenance.

123 – UNABLE TO READ TIMING BAND/Turn Ballot Over and Try Again

Cause: The scanner detected a problem with a ballot's alignment as it passed through the read area.

Solution: Remove and reinsert the ballot in a different orientation. If the system continues to reject the ballot, contact ES&S technical support for assistance.

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124 – BALLOT DRAGGED/Turn Ballot Over and Try Again

Cause: The ballot did not enter the feed mechanism smoothly, which caused misalignment during scanning.

Solution: Remove and reinsert the ballot. If the system continues to reject the ballot, contact ES&S technical support for assistance.

125 - BALLOT TOO LONG/Please See Election Official

Cause: The length of an inserted ballot was greater than the ballot length specified in the scanner's election definition.

Solution: Contact ES&S technical support for assistance.

126 - BLACK CHECK: FACE DOWN HEAD EDGE/Turn Ballot Over and Try Again

Cause: The scanner failed to read one or more of the orientation marks that appear at the top and bottom of each ballot column.

Solution: Remove and reinsert the ballot in a different orientation. If the Model 100 fails to read the ballot a second time, clean the scanner's optical sensors with compressed air. If the scanner continues to fail, darken the black check marks with a black sharpie.

127 - BLACK CHECK: FACE DOWN TAIL EDGE/Turn Ballot Over and Try Again

Cause: The scanner failed to read one or more of the orientation marks that appear at the top and bottom of each ballot column.

Solution: Remove and reinsert the ballot in a different orientation. If the Model 100 fails to read the ballot a second time, clean the scanner's optical sensors with compressed air. If the scanner continues to fail, darken the black check marks with a black sharpie.

128 - BLACK CHECK: FACE UP HEAD EDGE/Turn Ballot Over and Try Again

Cause: The scanner failed to read one or more of the orientation marks that appear at the top and bottom of each ballot column.

Solution: Remove and reinsert the ballot in a different orientation. If the Model 100 fails to read the ballot a second time, clean the scanner's optical sensors with compressed air. If the scanner continues to fail, darken the black check marks with a black sharpie.

129 - BLACK CHECK: FACE UP TAIL EDGE/ Turn Ballot Over and Try Again

Cause: The scanner failed to read one or more of the orientation marks that appear at the top and bottom of each ballot column.

Solution: Remove and reinsert the ballot in a different orientation. If the Model 100 fails to read the ballot a second time, clean the scanner's optical sensors with compressed air. If the scanner continues to fail, darken the black check marks with a black sharpie.

130 - POSSIBLE FOLDED BALLOT/ Turn Ballot Over and Try Again

Cause: The scanner detected a ballot that is either folded, or shorter than the ballot length specified in the scanner's election definition.

Solution: Remove and reinsert the scanner. If the problem persists, contact the election supervisor for assistance.

131 –BALLOT READ ERROR-Please See Election Official

Cause: The scanner detected possible counterfeit marks on the ballot.

Solution: Remove and examine the ballot. Attempt to rescan the ballot if it appears to be genuine. If you detect a problem with the ballot, pass it on to your jurisdiction's review board. If this error message continues to appear as the scanner reads valid ballots, contact your election administrator for assistance.

132 - - TOP SCANBAR HAS BLOCKED SENSORS/Please See Election Official.

Cause: The scanner has detected a particle blocking one of its top sensors or a sensor failure.

Solution: Clean the scanner's optical sensors with compressed air. If the error persists, contact your election administrator to schedule technical service.

133 - BOTTOM SCANBAR HAS BLOCKED SENSORS/ Please See Election Official

Cause: The scanner has detected a particle blocking one of its bottom sensors or a sensor failure.

Solution: Clean the scanner's optical sensors with compressed air. If the error persists, contact

your election administrator to schedule technical service.

134 - BOTH SCANBARS HAVE BLOCKED SENSORS/Please See Election Official

Cause: The scanner has detected a particle blocking one of its sensors or a sensor failure.

Solution: Clean the scanner's optical sensors with compressed air. If the error persists, contact your election administrator to schedule technical service.

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135 - UNKNOWN ERROR, CODE: XXX

Cause: The scanner detected an undefined error during the scanning routine.

Solution: Remove and reinsert the ballot. If the error persists, contact your election administrator to schedule technical service and request a backup scanner.

136 - UNKNOWN ERROR, DECODE: XXX

Cause: The scanner encountered an undefined error while attempting to decode a ballot.

Solution: Remove and reinsert the ballot. If the error persists, contact your election administrator to schedule technical service and request a backup scanner.

137 – BALLOT TOO SHORT: XXX

Cause: The length of an inserted ballot was less than the ballot length specified in the scanner's election definition.

Solution: Contact ES&S technical support for assistance.

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Appendix D: Understanding System Menus

Appendix D contains diagrams and descriptions of Model 100 menu functions.

Which menu selections are available depend on what operating mode you activate for the Model 100. For example, if you turn the control key to the OPEN/CLOSE

POLL position, Model 100 POLLS OPEN options are not accessible.

The Model 100's three operating modes are DIAGNOSTIC-TEST, POLLS OPEN, and POLLS CLOSED. You can only activate one mode at a time.

Diagnostic Test Mode

Perform diagnostic tests before you open the scanner for voting. Model 100 diagnostic test functions include processing a test deck, setting the system time, calibrating the scanner, and auto-reading ballots. After you open the polls, the **DIAGNOSTIC-TEST** menu is not available unless you reopen the polls after closing the scanner for voting. To access the **DIAGNOSTIC-TEST** menu, start the Model 100 with a PC Card loaded, wait until the automatic reports print and then press the first and third buttons from the left on the control panel simultaneously. You can also access the **DIAGNOSTIC-TEST** menu by starting the Model 100 without installing a PC Card.

Accessing the Diagnostic Test Menu (with a PC Card Loaded)

To access the DIAGNOSTIC-TEST menu (with a PC Card loaded)

1. Insert the PC Card with the election definition and turn the scanner on. The scanner powers up and the message "ELECTION CARD INSERTED: OPEN POLLS NOW?" appears.

S-MODE DIAGNOSTIC-TEST MENU

SYSTEM ELECTION PREVIOUS

DIAGS SETTINGS TEST MENU

2. Press the first and third buttons from the left to access the **DIAGNOSTICTEST** menu.

3. The three selections under the **DIAGNOSTIC-TEST** menu are **DIAGS** (diagnostics), **SYSTEM SETTINGS**, and **ELECTION TEST**.

Accessing the Diagnostic Test Menu (without a PC Card)

To access the DIAGNOSTIC-TEST menu (without a PC Card)

Do not insert a PC Card into the scanner and turn the scanner key to

OPEN/CLOSE POLL. **DIAGS** is the only menu selection available when no PC Card is loaded in the Model 100.

Press Both to

Select the

Diagnostic

Test Menu

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The DIAGS Menu

Select **DIAGS** from the **DIAGNOSTIC-TEST** menu to test the scanner's accuracy and print reports that detail the current machine status. The three options available from the **DIAGS** menu are **BALLOT DIAGS**, **SYSTEM REPORTS**, and **MORE DIAGS**.

Select **BALLOT DIAGS** to test your scanner's accuracy. The two options available from the **BALLOT DIAGS** menu are **FEED BALLOTS** and **RECYCLE SET**. Select **RECYCLE SET** to select the number of times that the

scanner will read the next ballot inserted into the Model 100.

To test the scanner

Select **FEED BALLOTS** and insert ballots into the scanner. If the scanner successfully reads the ballot, the ballot emerges from the back of the scanner and drops into the ballot box. If the scanner detects ballot irregularities, the scanner rejects the ballot and a system error message appears.

The Ballot Diagnostics menu

After scanning test ballots, use the report options available under the **BALLOT DIAGNOSTICS** menu to check the scanner's accuracy. **BALLOT DIAGNOSTICS** options print reports that describe the last ballot scanned. Available options include: **DIGITAL REPORTS**, **MARKS TALLY**, and **GRAPHICS PRINT**.

S-MODE BALLOT DIAGNOSTICS

TOTAL BALLOTS 0000

DIGITAL MARKS GRAPHICS PREVIOUS

REPORTS TALLY PRINT MENU

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To print diagnostics reports

1. Select **DIGITAL REPORTS** and then select **DIGITAL TABLE** to generate a report that shows how many pixels the scanner reads in each oval location.
2. Select **MARK CODE** from the **DIGITAL TABLE** menu to generate a report that shows the different types of marks recognized by the scanner in each response area. Four different kinds of readings are displayed:

- A dash (-) appears if the scanner detects a blank response area.
- An I (ignore) code appears if the scanner detects too few pixels in the response area to register a valid mark.
- A V (vote) code appears if detects a valid voting mark in the specified area.
- An E (error) code appears if the scanner reads detects a mark but cannot read the mark as a valid vote.

A number representing the variations in darkness (the thickness) of the mark follows the vote codes.

Mark Code Table

*** Mark Code Table ***

10:37:01 03/20/2001

Orientation: FACE UP, HEAD FIRST

ROW CODE -A- -B- -C- -D- -E- -F-

001 12 V4 V4 V4 - - -

002 000 V1 V1 E2 - - -

003 000 - - - - -

004 000 - - - - -

005 000 - - V2 - - -

006 138 - V6 - - - -

007 000 - V6 - - - -

008 000 - - - - -

009 000 - V5 V5 - - -

010 000 V6 - - - - -

011 000 V6 - V6 - - -

012 000 - - - - -

013 000 - - - - -

014 000 - - V3 - - -

015 309 V6 - - - - -

016 308 - - V6 - - -

017 319 - - - - -

018 160 V6 - - - - -

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3. From the **DIGITAL REPORTS** menu, select **SCAN REPORT** to produce a report that assists you with diagnosing ballots with a high scan error rate.

Sample Scan Report and Description

*** Scanned Ballot Information ***

Orientation: FACE UP, HEAD FIRST (Orientation determined
by the scanning algorithm)

Ballot Sides Defined: 2

(Number of ballot sides defined on the Election Definition PCMCIA
card: 1 or 2)

Ballot Sides Determined: 2

(Number of sides the ballot has: 1 or 2)

FRONT OF BALLOT

Black Checks Info:

Mark: Left Edge Right Edge Size

TT: 008, 027, 152

A: 034, 040, 048

B: 092, 098, 046

C: 151, 157, 048

Black Check Information

Mark: The black check mark types on the ballot; TT, A, B, C, D, E, F

Left Edge: Millimeter measurement from the left edge of the ballot to the left edge of the specified black check mark

Right Edge: Millimeter measurement from the left edge of the ballot to the right edge of the specified black check mark

Size: Number of pixels that exist horizontally within the specified black check mark

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Vertical skew: 1

(Difference in scans when finding the left edge and right edge of the leading edge of the ballot; caused by the user inserting the ballot at an angle)

Timing Track Info:

(Number of timing tracks found on the target side)

Number of timing bands: 036

Number of white bands: 036

Number of horizontal adjustments: -1

BACK OF BALLOT

Black Checks Info:

Mark: Left Edge Right Edge Size

D: 012, 018, 048

E: 071, 077, 048

F: 129, 135 ,048

TT: 201, 207, 050

Vertical skew: 4

Timing Track Info:

Number of timing bands: 036

Number of Timing Bands

(Number of black check marks (timing bands) vertically on the ballot; the number of white bands should match the number of bands of the Election Definition where a 14/36 ballot should have a value of 36)

Number of White Bands

Number of white spaces between the timing bands vertically on the ballot; the number of white bands should match the number of bands of the Election Definition where a 14/36 ballot should have a value of 36)

Number of horizontal adjustments

(Number in millimeters that the timing track shifted during the scanning of the ballot; -4 to +4 where negative values determine a left shift and positive values a right shift)

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Number of white bands: 036

Number of horizontal adjustments: 2

SUCCESSFUL SCAN (0)

4. Select **PREVIOUS MENU** and then **MARKS TALLY** from the **BALLOT** **DIAGNOSTICS** menu to generate a report that identifies the number of

marked ovals, by row, detected on both sides of the ballot. The report heading shows how many ballots the Model 100 scanned and the report itself shows the ballot position of marks read by the scanner.

A zero on the **MARKS TALLY** report identifies an oval that failed to register on the scanner. A number (001, for example) indicates a scanned oval and identifies the row/column position of the oval. The value of the number indicates how many scanned ballots registered a valid mark in the specified ballot position. For example, if the value 003 appears in row one, column A, three scanned ballots contain a valid mark in the specified oval position.

Sample Marks Tally Report and Sample Ballot

Ballot Position Totals Report

Total ballots Scanned: 001

Row -A- -B- -C- -D- -E- -F-

1 000 000 000 000 000 000

2 000 000 000 000 000 000

3 000 000 000 000 000 000

4 000 000 000 000 000 000

5 001 000 000 000 000 000

6 000 000 000 000 000 000

7 000 000 000 000 000 000

8 000 000 000 000 000 000

9 000 000 001 000 000 000

10 000 000 000 000 000 000

11 000 000 000 000 000 000

12 000 000 000 000 000 000

13 000 000 000 000 000 000

14 000 001 000 000 000 000
 15 000 000 000 000 000 000
 16 000 000 000 000 000 000
 17 000 000 000 000 000 000
 18 000 000 000 000 000 000
 19 000 000 000 000 000 000
 20 000 000 000 000 000 000
 21 000 000 001 000 000 000
 22 000 000 000 000 000 000
 23 000 000 000 000 000 000
 24 001 000 000 000 000 000
 25 000 000 000 000 000 000
 26 000 000 000 000 000 000
 27 000 000 000 000 000 000
 28 000 000 000 000 000 000
 29 000 000 000 000 000 000
 30 000 000 000 000 000 000

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Note: The oval threshold setting determines whether the scanner can read a mark.

5. Select **GRAPHICS PRINT** from the **BALLOT DIAGNOSTICS** menu to print a graphic display of what the scanner reads within each “cell” window.

Each black dot on the printout represents a marked dot on the ballot with a dashed line dividing each row and cell.

Graphics Print Table

6. Press **PREVIOUS** to navigate backward through Model 100 menus until you

reach the **DIAGNOSTIC** menu. From the **DIAGNOSTIC** menu, select **SYSTEM REPORTS**. Use the **SYSTEM REPORTS** options check the status of the scanner and identify system problems. The three system reports available are: **DEBUG REPORT**, **CONFIG REPORT**, and **SYSTEM REPORT**. See Appendix B, “Understanding Reports” for explanations and examples of Model 100 system reports.

Diagnostic Report Menu

S-MODE DIAGNOSTIC REPORT
DEBUG CONFIG SYSTEM PREVIOUS
REPORT REPORT REPORT MENU

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The System Settings Menu

Use **SYSTEM SETTINGS** options to calibrate the scanner and set the system clock. You must install your election definition PC Card before you activate the scanner to alter scanning options.

System Settings Menu

1. Select **THRHLDS** to access the **MULTI SHEET** option, which you can use to test the scanner’s multi-sheet sensor.

Note: The multi-sheet sensor prevents the scanner from accepting two ballots at the same time. For more information about testing the multi-sheet sensor, see Chapter 4.

2. Select **DATE TIME** and select from the following options to adjust the system time, date, and time zone.

- **Set Date:** sets the current date according to the current time zone.
- **Set Time:** sets the current time according to the current time zone.
- **Set Time Zone:** sets the time zone for the polling site.

Date/Time Menu

3. Only qualified, ES&S technical support staff should select the **CALIBRATE DACS** option.

S-MODE SYSTEM SETTINGS

DATE CALIBRATE PREVIOUS

THRHLDs TIME DACS MENU

S-MODE DATE TIME

SET SET SET PREVIOUS

DATE TIME ZONE MENU

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The Election Test Menu

Use options from the **ELECTION TEST** menu to verify the election definition and check the system counting logic. The Model 100 does not store results for any of the ballots scanned during the election test and the scanner clears any existing election totals when you enter the **ELECTION TEST** menu. The scanner restores any existing, official results to the PC Card after you exit the **ELECTION TEST** menu. The three options available in the **ELECTION TEST** menu are **TEST BALLOT**, **REPORTS**, and **ZERO TOTALS**.

Election Test Menu

1. From the **ELECTION TEST** menu, select **TEST BALLOTS** to open the

BALLOT TEST menu. From the **BALLOT TEST** menu, select **FEED BALLOTS**, and then insert test ballots into the scanner as you would for a normal election.

Election Test Insert Ballot

2. After you finish scanning test ballots, select **PREVIOUS** to navigate backwards through Model 100 menus until you return to the **ELECTION TEST** menu.

From the **ELECTION TEST** menu, select **REPORTS** to open the **ELECTION REPORTS** menu. Use the three options available from the **ELECTION REPORTS** menu (**SEND RESULTS, REPORTS**, and **PAPER FEED**) to generate test reports from the Model 100.

Note: For more information about using the **PAPER FEED** command, see Appendix A, “Maintaining the Counter.” For information about transferring election results over a network, see Chapter 5, “Election Day Tasks.”

S-MODE ELECTION TEST MENU
TEST ZERO PREVIOUS
BALLOT REPORTS TOTALS MENU
S-MODE ELECTION TEST INSERT BALLOT
NUMBER OF VOTERS: 0
PREVIOUS
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Election Reports Menu

3. From the **ELECTION REPORTS** menu, select **REPORTS** to open the **PRINT REPORTS** menu. From the **PRINT REPORTS** menu, you can

generate a Poll Report, a Precinct Report or a Status Report. For samples and descriptions of the available reports, see Appendix B, “Understanding Reports.”

Print Reports Menu

4. From the **ELECTION TEST** menu, select **ZERO TOTALS** to set the test totals stored in system memory to zero.

Using the Ballot Auto-read Option

Use the Model 100 auto-read option for diagnostic purposes to select the number of times the scanner reads a single ballot. You can run a series of ballots and change the number of times the scanner processes each ballot.

To activate the auto-read option

1. From the **DIAGNOSTIC-TEST** menu, select **ELECTION TEST** to open the **ELECTION TEST** menu.
2. From the **ELECTION TEST** menu, select **TEST BALLOT** to open the **BALLOT TEST** menu.
3. From the **BALLOT TEST** menu, select **AUTOREAD SETTINGS** to open the **AUTOREAD SETTINGS** menu. Use **AUTOREAD SETTINGS**

S-MODE ELECTION REPORTS

SEND PAPER PREVIOUS

RESULTS REPORTS FEED MENU

S-MODE PRINT REPORTS

POLL PRECINCT STATUS PREVIOUS

REPORT REPORT REPORT MENU

options to set the number of times the Model 100 automatically scans the next inserted ballot. You can also configure the scanner to process ballots multiple times based on ballot style. For example, you can select a ballot style and enter a number to direct the scanner to process the next ballot it detects that falls within the specified style the number of times that you specify.

4. Press **SELECT DIGIT** to specify the number of times the Model 100 will scan the selected ballot. Press **PLUS** or **MINUS** to increase or decrease the number.

5. Press **PREVIOUS MENU** to navigate back to the **TEST BALLOT** menu and press **FEED BALLOTS** to open the **AUTOREAD** menu.

6. Insert the ballot that you want to scan. The Model 100 automatically scans the ballot the number of times that you specified in the **AUTOREAD SETTINGS** menu.

7. Press **STOP** to cancel ballot processing. Re-insert the ballot to restart the scanning process. Press **RESET** to clear the **CURRENT COUNT**. Press **PREVIOUS** to return to the **BALLOT TEST MENU** when you finish processing ballots.

Note: From the **BALLOT TEST MENU**, press **AUTOREAD SETTINGS** to change the number of scan cycles for each ballot that you want to scan.

Polls Open Mode

Open the polls to begin scanning official ballots on Election Day.

To open the polls

Press **PREVIOUS** to navigate backwards through Model 100 menus until you see the message “ELECTION CARD INSERTED OPEN POLLS NOW?” on the display screen. Press **YES** and turn the key to VOTE to open the polls.

The scanner performs a series of internal system checks and displays the results. If any of the checks fail, the scanner rejects the loaded election definition and defaults to the main menu.

If the system checks out, the Model 100 automatically sets election totals to zero and prints a Status Report and then a Zero Totals report. The Zero Report lists all active races, and shows the current vote count for all of the contests and issues included on the ballot. The scanner automatically shuts down if it fails to properly clear votes from system memory. If necessary, you can generate multiple zero reports with certification statements.

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After the scanner completes its automatic checks and prints initial reports, the message, “INSERT BALLOT” appears on the display screen. Voters can now insert ballots into the scanner and the Model 100 saves the results to the inserted PC Card.

Insert Ballot Screen

To print an audit log report with the polls open

1. To print a log report without closing the scanner, open the Key Access Panel and turn the control key to the OPEN/CLOSE POLL position. The **AUDIT LOG-REPORT** option appears next to the **CLOSE POLLS** option.
2. Select **AUDIT-LOG REPORT** to print the log.

3. Turn the key back to the **VOTE** position after the report prints to enable voting.

To enable additional precincts with the polls open

1. To enable additional precincts without closing the scanner, open the Key

Access Panel and turn the key to the OPEN/CLOSE POLL position. The

AUDIT LOG-REPORT option appears next to the **CLOSE POLLS** option.

2. Press the far left button on the control panel (it does not have a label) to open the **ENABLE PRECINCTS** menu.

3. Select **NXT-PREC** to advance through a list of available precincts.

4. Select **ENABLE** for each precinct that you want to activate. After you enable a precinct, the precinct remains active for the duration of the election or ballot test. If you activate a precinct for testing, the scanner reverts to the previous settings after you exit the test menu.

5. Select **PREVIOUS** navigate backwards through Model 100 menus until you reach the **CLOSE POLL** option, and then turn the key to the VOTE position to activate the scanner for voting.

To close the polls

INSERT BALLOT

NUMBER OF VOTERS: 0

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1. At your jurisdiction's assigned closing time, turn the scanner control key to OPEN/CLOSE POLL position to access the **CLOSE POLLS** option.

2. Press **CLOSE POLLS** to close the Model 100 for voting. The scanner does not save any ballot totals to the PC Card after you close the polls.

Note: Depending on how you configured your election definition, the scanner

may automatically print a results report and a certification report after you close the polls. Press **CANCEL** to abort the printing. You can print additional copies of any automatic reports from Polls Closed mode.

Polls Closed Mode

Activate **POLLS CLOSED** mode to generate results reports, print the system audit log and to transfer election results to your reporting software.

Polls Closed Menu

1. Open the key access panel and turn the control key to the **OPEN/CLOSE POLL** position to access the **POLLS CLOSED** menu.
2. The options available from the **POLLS CLOSED** menu include: **RESULTS REPORT**, **SEND RESULTS**, **AUDIT-LOG REPORT** and **MORE**. For more information about all of the commands available on this menu, except the **MORE** option, see “The Election Test Menu” earlier in this appendix.
Note: For more information about the **SEND RESULTS** option see “Closing the Polls” in Chapter 5. Use the **SEND RESULTS** option to transfer results over a network to a computer running election reporting software at your election headquarters.
3. Select **MORE** to open the **MORE SELECTIONS** menu. Options available from the **MORE SELECTIONS** menu include: **RE-OPEN POLLS**, **MORE REPORTS** and **PAPER FEED**. Select **PAPER FEED** to advance the printer paper by one line. For more information about the **RE-OPEN POLLS** option, see Chapter 5, “Election Day Tasks.”

S-MODE POLLS CLOSED

RESULTS SEND AUDIT-LOG

REPORTS RESULTS REPORT MORE

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4. Select **MORE REPORTS** and enter a password (if necessary) to open the **MORE REPORTS** menu. The three options available in the **MORE REPORTS** menu include: **CHANGE TYPE**, **PRECINCT REPORTS** and **POLL REPORT**.

5. Select **CHANGE TYPE** to select either media or summary as the report type. See Appendix B, “Understanding Reports,” for more information about report types.

6. Select **PRECINCT REPORTS** to print a ‘precinct by precinct report.’ For more information and examples of report types, see Appendix B, “Understanding the Reports.”

7. Select **POLL REPORT** to print an election poll report. For more information and examples of report types, see Appendix B, “Understanding the Reports.”

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Model 100 Menu Flow Charts

Start-up Menu

CLEAR ELECTION DAY VOTES

TO ENTER ELECTION TEST MENU

YES NO

If there are election day totals on the PC

Card and you press ELECTION TEST while

in the DIAGNOSTIC TEST MENU

Model 100 Start-up Menu

Power up message with the Key in the

VOTE position and the PC card installed.

S-MODE ELECTION CARD INSERTED

OPEN POLLS NOW?

YES

Power up message with the key in the Open/Close

position and no PC Card installed.

S-MODE NO ELECTION CARD

DIAGS

Requires that both the 1st

and 3rd buttons be pressed

simultaneously

S-MODE DIAGNOSTIC-TEST MENU

SYSTEM ELECTION PREVIOUS

DIAGS SETTINGS TEST MENU

S-MODE DIAGNOSTIC MENU

BALLOT SYSTEM MORE PREVIOUS

DIAGS REPORTS DIAGS MENU

S-MODE SYSTEM SETTINGS

DATE CALIBRATE PREVIOUS

THRHDS TIME DACS MENU

S-MODE ELECTION TEST MENU

TEST ZERO PREVIOUS

BALLOT REPORTS TOTALS MENU

Power up message with the key in the Open/Close

position and a PC Card installed.

ELECTION CARD INSERTED.

OPEN POLLS NOW?

YES

S-MODE ELECTION CARD INSTERTED

OPEN POLLS NOW?

S-MODE MODEM MENU

MODEM CDPD PREVIOUS

SETTINGS STATUS MENU

S-MODE

SERIAL REDIRECTED

OK

CDPD STATUS

ANY KEY TO

EXIT

Press the first and second buttons from the left at

the same time to access the **Modem** menu.

YES

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Diagnostic Menu

S-MODE DIGITAL REPORTS

DIGITAL MARK SCAN PREVIOUS

TABLE CODE REPORT MENU

S-MODE DIAGNOSTIC MENU

BALLOT SYSTEM MORE PREVIOUS

DIAGS REPORTS DIAGS MENU

S-MODE BALLOT DIAGNOSTICS

FEED RECYCLE PREVIOUS

BALLOTS SET MENU

S-MODE BALLOT DIAGNOSTICS

TOTAL BALLOTS: 0000

DIGITAL MARKS GRAPHICS PREVIOUS

REPORTS TALLY PRINT MENU

S-MODE RECYCLE SETTINGS

CYCLES: 0000

SELECT PREVIOUS

DIGIT PLUS MINUS MENU

S-MODE DIAGNOSTIC REPORTS

DEBUG CONFIG SYSTEM PREVIOUS

REPORT REPORT REPORT MENU

S-MODE MORE DIAGS

BATTERY MOTOR PREVIOUS

STATUS CONTROL MENU

S-MODE BATTERY STATUS

STATUS: BATTERY FULL

PREVIOUS

STEPPER MOTOR CONTROL UTILITY

FORWARD REVERSE PREVIOUS

MOTOR MOTOR MENU

Diagnostic Menu

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System Settings

System Settings

MULTI PREVIOUS

SHEET MENU

S-MODE CALIBRATION MENU

SET FACTORY PREVIOUS

DACS DEFAULTS MENU

S-MODE SYSTEM SETTINGS

DATE CALIBRATE PREVIOUS

THRHDS TIME DACS MENU

MONTH: 11 DAY: 30 YEAR 2001

S-MODE SET DATE

SELECT PLUS MINUS PREVIOUS

S-MODE DATE TIME

SET SET SET PREVIOUS

DATE TIME ZONE MENU

S-MODE SET TIME

HOUR: 15 MINUTES: 37 SECONDS: 12

SELECT PLUS MINUS PREVIOUS

S-MODE SET TIME ZONE

HOURS OFFSET: 02 DST: ENABLED

TOGGLE

PLUS MINUS DST PREVIOUS

MULTI-SHEET DETECTION

DETECT: FALSE

PREVIOUS

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Calibration Menu

Calibration Menu

S-MODE CALIBRATION MENU

SET FACTORY PREVIOUS

DACS DEFAULTS MENU

S-MODE DAC VALUES/SENSOR/SKEW

SET SET SET PREVIOUS

S-MODE SET SENSOR OFFSET

CURRENT VALUE: 36

INCREMENT DECREMENT PREVIOUS

S-MODE SET SKEW TOLERANCE

SKEW TOLERANCE: 100

PREVIOUS

PLUS MINUS MENU

S-MODE LOAD/SAVE FACTORY DEFAULT

LOAD SAVE RESET PREVIOUS

FACTORY FACTORY FACTORY MENU

S-MODE LOAD FACTORY DEFAULTS?

YES NO

S-MODE RESET FACTORY DEFAULTS?

YES NO

S-MODE

FACTORY DEFAULTS LOADED

OK

S-MODE

FACTORY DEFAULTS RESET

OK

S-MODE SAVE FACTORY DEFAULTS?

YES NO

S-MODE

FACTORY DEFAULTS SAVED

OK

S-MODE SET DAC VALUES

SELECT PLUS MINUS PREVIOUS

TOP DAC 0180 A:000 B:000 C:000

BOTTOM DAC 0180 D:000 E:000 F:000

111

Election Test Menu

ELECTION TEST INSERT BALLOT

NUMBER OF VOTERS: 0

PREVIOUS

AUTOREAD SETTINGS MENU

CYCLES: 000000

SELECT PREVIOUS

DIGIT PLUS MINUS MENU

ELECTION TEST MENU

TEST ZERO PREVIOUS

BALLOT REPORTS TOTALS MENU

ELECTION REPORTS

SEND PAPER PREVIOUS

RESULTS REPORTS FEED MENU

COUNTERS ARE SET TO ZERO

OK

If cycles on AUTOREAD SETTINGS

menu set to more than 0

PRINT REPORTS

POLL PRECINCT STATUS PREVIOUS

REPORT REPORT REPORT MENU

AUTOREAD MENU

TOTAL COUNT/TARGET

000000 000000 000000

STOP RESET PREVIOUS

If you press PREVIOUS MENU in Election Test

Mode

CLEAR ELECTION TEST RESULTS

AND LEAVE ELECTION TEST MENU

YES NO

BALLOT TEST MENU

FEED AUTOREAD PREVIOUS

BALLOTS SETTINGS MENU

Election Test Menu

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Opening and Closing Polls Menu

S-MODE ELECTION CARD INSERTED

OPEN POLLS NOW?

YES

S-MODE OPENING POLLS

PLEASE TURN KEY/SWITCH TO VOTE

INSERT BALLOT

NUMBER OF VOTERS: 0

INSERT BALLOT

NUMBER OF VOTERS: 123

S-MODE INSERT BALLOT

NUMBER OF VOTERS: 123

AUDIT LOG CLOSE

REPORT POLLS

Opening and Closing Polls

One of the following two screens

will appear dependant on the

election definition.

S-MODE POLLS CLOSED

RESULTS SEND AUDIT-LOG

REPORT RESULTS REPORT MORE

If designated in the Election

Definition, Automatic Modem

begins now.

S-MODE MORE SELECTIONS

RE-OPEN MORE PAPER PREVIOUS

POLLS REPORTS FEED MENU

S-MODE REPORT SELECTION

TYPE=MEDIA

CHANGE PRECINCT POLL PREVIOUS

TYPE REPORT S REPORT MENU

S-MODE ENTER PASSWORD KEYS

0 0 0

NEXT KEY KEY

KEY UP DOWN ENTER

Or, if printing is disabled

AUTO ACTION

Print: Status Report

Print: Zero Totals Report

Printing Zero Cert Report

Print: Poll Open Time

AUTO ACTION Print: Status Report

Print: Race ResultsReport (Flag)

Print: Certification Report (Flag)

Print: Audit Log

ACTION REQUIRED TO CLOSE POLLS

Turn Key/Switch to OPEN/CLOSE POLL

When test totals exist on PC Card and you

turn the key/switch to Vote

ELECTION TEST COUNTS EXIST

ON THE PCMCIA CARD

CLEAR TEST COUNTS TO CONTINUE. . .

YES NO

S-MODE ENABLE PRECINCTS

PRECINCT ONE

STATUS: ENABLED

NXT-PREC ENABLE PREVIOUS

113

114

Appendix E: Troubleshooting

Use the following procedures if there is a power outage or scanner failure.

Using the Temporary Ballot Storage Bin

If the Model 100 fails during an election, use the following procedure to store ballots in the temporary bin until you can repair or replace the scanner.

To store ballots in the temporary bin

1. Unlock the sliding door on the front panel of the ballot box.
2. If your jurisdiction uses nested ballot boxes, slide the door down until it no longer holds the scanner in place. Lock the sliding door open.
3. If your jurisdiction uses metal ballot boxes, open the door to the emergency bin and lock the top hinged panel on the front of the ballot box in the raised position. Open the lower hinged panel and rotate the inside cover on the lower hinged panel to gain access to the storage bin slot. Swing the panel back up and lock in place.

The Metal Ballot Box The Nested Ballot Box

4. Voters may now insert ballots into the newly exposed slot for temporary storage. Store uncounted ballots in the emergency bin until you can repair or replace the scanner.

Slide Door

Downward

Storage

Bin Slot

Door

Lock

Swing Hinged

Door Upward

Locks

Storage

Bin Slot

115

Recovering or Replacing the Scanner

If one of your scanners fails and must be replaced, turn the malfunctioning scanner off and remove the election definition PC Card from the slot. Insert the PC card into a replacement scanner and turn the replacement scanner on. The new scanner automatically recovers the vote totals and election information from the previous scanner. .

For more information about resuming scanner operations after a single recovery, see, "Re-Opening the Polls" in Chapter 5.

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Appendix F – Loading New Firmware Onto The M100

To install new firmware on the M100, obtain an official PCMCIA firmware card from Election Systems & Software. Begin loading the firmware card onto the M100 machine.

To load the M100 firmware card onto the M100 machine

1. Remove any cards currently in the machine before inserting the PCMCIA card.
2. Turn on the M100 machine.
3. The screen displays the card version number.
4. A message appears saying, “Reprogram flash memory. Load flash?” Press **Yes** to load the flash. Press **No** to not load the flash.

Note: Do not remove the PCMCIA card during this process.

5. After you have successfully loaded the firmware, you will receive a confirmation message. Turn off the machine and remove the card.

Unity Election System™

Election Data Manager™ Hardware Programming Manager™

Ballot Image Manager™ Data Acquisition Manager™

Ballot on Demand™ Election Reporting Manager™

iReport

Profile Voter Registration Systems™

PowerProfile™ MegaProfile™

StateProfile™ CandidateProfile™

Ballot Counting Systems

Systems for use at the Precinct or Polling Place – Electronic Ballot:

iVotronic® DRE Touch Screen Voting System

V-2000 Full Face DRE Touch Panel Voting System

Systems for use at the Precinct or Polling Place – Paper Ballot:

Model 100 OMR System

Model 2100 Punch Card System

Systems for use at Central or Regional Locations – Paper Ballot:

Model 150 OMR System

Model 550 OMR System

Model 650 OMR System

Model IV-C OMR System

Election Services and Support

On-site Training and Election Day Support Toll Free Phone and On-line Support

Election Programming Services Ballot Printing Services

Comprehensive Training Programs and Tools Systems and Procedures Documentation

Maintenance Programs Complete Inventory of Election Supplies

If you would like more information on any of our products or services please contact us:

Election Systems & Software, Inc.

11208 John Galt Blvd.

Omaha, NE 68137

Phone: 402-593-0101

Toll Free Inside the U.S.: 1-800-247-8683

Fax: 402-593-8107

Visit our website at www.essvote.com

The following products and services are
available from ES&S:

[ES-M100 OP 5.2.pdf](#) (1,119.5 Kb)Download

Files provided by Durham County Board of Elections Staff .

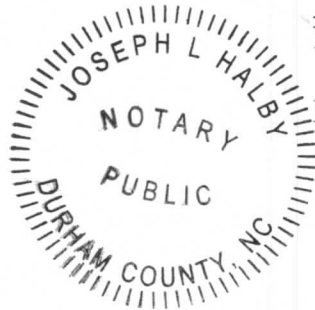
CERTIFICATION OF RECORDS

The undersigned is a custodian of records of Durham County Board of Elections and does hereby certify that the attached are scanned copies of the records of Durham County Board of Elections results tapes from five One Stop voting sites and one Election Day precinct: OS-BOE, OS-NRL, OS-SRL, OS-ERL, OS-ERU, Precinct 29. The said records were kept and maintained in the ordinary course of business, and are an accurate, legible, and complete duplicate of the aforementioned records.

Dated at Durham, NC, this the 18th day of November, 2016.

Kate Cosner
Custodian of Records

Sworn to and subscribed before me on the 18 day of November, 2016.



Joseph L. Halby
NOTARY PUBLIC

My Commission Expires: 06/03/2017

*** Status Report ***
16:51:41 11/08/2016

Durham County, NC
Durham County, NC General Election
0058 OS-BDE
Election Date: November 08, 2016
OS-BDE

Ballot Types:
all

18918
Total: 18918

*** Voting Results Report ***
16:51:43 11/08/2016

Durham County, NC
Durham County, NC General Election
0058 OS-BDE
Election Date: November 08, 2016
Total Number Voting: 18918

Precinct Results Report

OS-BDE

Total Ballots	18918
Ballots for Code 00001-01-01	5229
Ballots for Code 00002-01-01	2262
Ballots for Code 00003-01-01	1554
Ballots for Code 00004-01-01	393
Ballots for Code 00005-01-01	3188
Ballots for Code 00006-01-01	5288
Ballots for Code 00007-01-01	59
Ballots for Code 00008-01-01	451
Ballots for Code 00009-01-01	51
Ballots for Code 00010-01-01	37
Ballots for Code 00011-01-01	58
Ballots for Code 00012-01-01	348

1001_US PRESIDENT

REP-Donald J. Trump	1006
DEM-Hillary Clinton	17420
LIB-Gary Johnson	241
Write In	182
Over Votes	1
Under Votes	68
Total Votes	18918

1002_US SENATE

REP-Richard Burr	1277
DEM-Deborah K. Ross	17165
LIB-Sean Haugh	274
Over Votes	7
Under Votes	195
Total Votes	18918

1380_US HOUSE OF REPRESENTATIVES D CONGR

REP-H. Powell Dew, Jr.	1030
DEM-G. K. Butterfield	16646
LIB-J.J. Summerell	341
Over Votes	3
Under Votes	404
Total Votes	18424

1383_US HOUSE OF REPRESENTATIVES D CONGR

REP-Sue Googe	57
DEM-David Price	423
Over Votes	0
Under Votes	14
Total Votes	494

Under Votes 404

Total Votes 18424

1383_US HOUSE OF REPRESENTATIVES D CONGR

REP-Sue Googe 57

DEM-David Price 423

Over Votes 0

Under Votes 14

Total Votes 494

1016_NC GOVERNOR

REP-Pat McGrory 1166

DEM-Roy Cooper 17379

LIB-Lon Cecil 192

Over Votes 5

Under Votes 176

Total Votes 18918

1395_NC LIEUTENANT GOVERNOR

REP-Dan Forest 1204

DEM-Linda Coleman 16998

LIB-Jacki Cole 339

Over Votes 4

Under Votes 373

Total Votes 18918

1022_NC ATTORNEY GENERAL

REP-Buck Newton 1158

DEM-Josh Stein 17321

Over Votes 5

Under Votes 434

Total Votes 18918

1019_NC AUDITOR

REP-Chuck Stuber 1635

DEM-Beth A. Wood 16646

Over Votes 6

Under Votes 631

Total Votes 18918

1023_NC COMMISSIONER OF AGRICULTUR

REP-Steve Troxler 1754

DEM-Walter Smith 16566

Over Votes 2

Under Votes 596

Total Votes 18918

1025_NC COMMISSIONER OF INSURANCE

REP-Mike Causey 1242

DEM-Wayne Goodwin 17001

Over Votes 2

Under Votes 673

Total Votes 18918

1024_NC COMMISSIONER OF LABOR

REP-Cherie Berry 1730

DEM-Charles Meeker 16602

Write In 20

Over Votes 7

Under Votes 559

Total Votes 18918

1018_NC SECRETARY OF STATE

REP-Micheel LaPaglia 1112

1018.NC SECRETARY OF STATE

REP-Michael LaPaglia	1112
DEM-Elaine Marshall	17286
Over Votes	6
Under Votes	514
Total Votes	18918

1021.NC SUPERINTENDENT OF PUBLIC I

REP-Mark Johnson	1219
DEM-June Atkinson	17104
Over Votes	5
Under Votes	590
Total Votes	18918

1020.NC TREASURER

REP-Dale R. Folwell	1396
DEM-Dan Blue III	16935
Over Votes	3
Under Votes	584
Total Votes	18918

1045.NC STATE SENATE DIST 20 NC SENATE D

DEM-Floyd B. McKissick, Jr.	9862
LTB-Barbara Howe	810
Over Votes	16
Under Votes	369
Total Votes	11057

1047.NC STATE SENATE DIST 22 NC SENATE D

REP-T. Greg Doucette	904
DEM-Mike Woodard	6686
Over Votes	1
Under Votes	270
Total Votes	7861

1104.NC HOUSE OF REPRESENTATIVES D NC HD

DEM-Larry D. Hall	6414
Over Votes	0
Under Votes	537
Total Votes	6951

1105.NC HOUSE OF REPRESENTATIVES D NC HD

REP-Elissa Fuchs	436
DEM-Paul Luebke	3393
Over Votes	1
Under Votes	136
Total Votes	3966

1106.NC HOUSE OF REPRESENTATIVES D NC HD

DEM-H.M. (Mickey) Michaux, Jr.	6856
Over Votes	0
Under Votes	635
Total Votes	7491

1125.NC HOUSE OF REPRESENTATIVES D NC HD

REP-Rod Chaney	119
DEM-Graig R. Meyer	362
Over Votes	1
Under Votes	28
Total Votes	510

0001_DURHAM CO BD OF COMMISSIONER
Number to Vote For: 5

DEM-Heidi Carter	14743
DEM-James Hill	14585
DEM-Brenda Howerton	14707
DEM-Wendy Jacobs	14778
DEM-Ellen Reckhow	14539
Write In	213
Over Votes	2270
Under Votes	18755

Total Votes	94590
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0002_DURHAM CO REGISTER OF DEEDS

DEM-Sharon A. Davis	17088
Over Votes	0
Under Votes	1830

Total Votes	18918
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1393_NC SUPREME COURT ASSOCIATE JU

Michael R. (Mike) Morgan	14344
Robert H. (Bob) Edmunds	2611
Over Votes	7
Under Votes	1956

Total Votes	18918
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1198_NC COURT OF APPEALS JUDGE (ST

REP-Phil Berger, Jr.	1146
DEM-Linda Stephens	17103
Over Votes	3
Under Votes	666

Total Votes	18918
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1396_NC COURT OF APPEALS JUDGE (GE

REP-Hunter Murphy	1060
DEM-Margaret Eagles	16564
UNA-Donald Ray Bute	557
Over Votes	9
Under Votes	728

Total Votes	18918
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1197_NC COURT OF APPEALS JUDGE (HU

REP-Bob Hunter	1546
DEM-Abe Jones	16594
Over Votes	4
Under Votes	774

Total Votes	18918
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1199_NC COURT OF APPEALS JUDGE (DI

REP-Richard Dietz	1388
DEM-Vince Rozier	16702
Over Votes	2
Under Votes	826

Total Votes	18918
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1373_NC COURT OF APPEALS JUDGE (ZA

REP-Valerie Zachary	1467
DEM-Rickye McKoy-Mitchell	16608
Over Votes	3
Under Votes	840

Total Votes	18918
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1283_NC DIST COURT JUDGE DIST 14 (14TH

William A. (Drew) Marsh III	4396
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Total Votes 18918

1283_NC DIST COURT JUDGE DIST 14 (14TH

William A. (Drew) Marsh III 4396
Shanteka LaGher Rhinehart 12908
Over Votes 30
Under Votes 1584

Total Votes 18918

0003_SOIL AND WATER CONSERVATION D

Danielle Adams 14949
Michael Van Sickle 1648
Write In 65
Over Votes 9
Under Votes 2247

Total Votes 18918

0004_SCHOOL BONDS

Yes 16752
No 1370
Over Votes 16
Under Votes 780

Total Votes 18918

0006_LIBRARY FACILITIES BONDS

Yes 16348
No 1766
Over Votes 11
Under Votes 793

Total Votes 18918

0005_COMMUNITY COLLEGE BONDS

Yes 16754
No 1381
Over Votes 7
Under Votes 776

Total Votes 18918

0007_MUSEUM BONDS

Yes 15968
No 2150
Over Votes 5
Under Votes 795

Total Votes 18918

WE, THE UNDERSIGNED, DO HEREBY CERTIFY
THAT THE ABOVE RESULTS ARE A TRUE AND
ACCURATE ACCOUNT OF THE ELECTION HELD
NOVEMBER 8, 2016, AND THAT ALL
COUNTERS WERE ZERO (0) WHEN THE POLLS
OPENED AND THAT THE ELECTION WAS HELD
IN ACCORDANCE WITH THE LAWS OF THE
STATE OF NORTH CAROLINA.

CHIEF JUDGE

JUDGE

JUDGE

*** Status Report ***
20:19:26 11/08/2016

Durham County, NC
Durham County, NC General Elec
0028 29_29_29
Election Date: November 08, 2016
29_29_29

Ballot Types:
all

759
Total: 759

*** Voting Results Report ***
20:19:28 11/08/2016

Durham County, NC
Durham County, NC General Elec
0028 29_29_29
Election Date: November 08, 2016
Total Number Voting: 759

Precinct Results Report

29_29_29

Total Ballots	759
Ballots for Code 00001-01-01	520
Ballots for Code 00002-01-01	4
Ballots for Code 00007-01-01	128
Ballots for Code 00008-01-01	107

1001_US PRESIDENT

REP-Donald J. Trump	306
DEM-Hillary Clinton	411
LIB-Gary Johnson	21
Write In	16
Over Votes	1
Under Votes	4
Total Votes	759

1002_US SENATE

REP-Richard Burr	307
DEM-Deborah K. Ross	421
LIB-Sean Haugh	22
Over Votes	2
Under Votes	7
Total Votes	759

1380_US HOUSE OF REPRESENTATIVES D CONGR

REP-H. Powell Dew, Jr.	282
DEM-G. K. Butterfield	418
LIB-J. J. Summerell	28
Over Votes	2
Under Votes	29

Total Votes 759

1380_US HOUSE OF REPRESENTATIVES D CONGR

REP-H. Powell Dew, Jr. 282
DEM-G. K. Butterfield 418
LIB-J. J. Summerell 28
Over Votes 2
Under Votes 29

Total Votes 759

1016_NC GOVERNOR

REP-Pat McGrory 311
DEM-Roy Cooper 427
LIB-Lon Cecil 18
Over Votes 1
Under Votes 2

Total Votes 759

1395_NC LIEUTENANT GOVERNOR

REP-Dan Forest 312
DEM-Linda Coleman 407
LIB-Jacki Cole 22
Over Votes 2
Under Votes 16

Total Votes 759

1022_NC ATTORNEY GENERAL

REP-Buck Newton 303
DEM-Josh Stein 436
Over Votes 1
Under Votes 19

Total Votes 759

1019_NC AUDITOR

REP-Chuck Stuber 298
DEM-Beth A. Wood 432
Over Votes 1
Under Votes 28

Total Votes 759

1023_NC COMMISSIONER OF AGRICULTUR

REP-Steve Troxler 323
DEM-Walter Smith 413
Over Votes 1
Under Votes 22

Total Votes 759

1025_NC COMMISSIONER OF INSURANCE

REP-Mike Causey 285
DEM-Wayne Goodwin 440
Over Votes 1
Under Votes 33

Total Votes 759

1024_NC COMMISSIONER OF LABOR

REP-Cherie Berry 326
DEM-Charles Meeker 404
Write In 1
Over Votes 1
Under Votes 27

Total Votes 759

1018_NC SECRETARY OF STATE

REP-Michael LaPaglia 279
DEM 480

Over Votes	27
Under Votes	
Total Votes	759

1018_NC SECRETARY OF STATE

REP-Michael LaPaglia	279
DEM-Elaine Marshall	450
Over Votes	1
Under Votes	29
Total Votes	759

1021_NC SUPERINTENDENT OF PUBLIC I

REP-Mark Johnson	292
DEM-June Atkinson	436
Over Votes	1
Under Votes	30
Total Votes	759

1020_NC TREASURER

REP-Dale R. Folwell	308
DEM-Dan Blue III	422
Over Votes	1
Under Votes	28
Total Votes	759

1045_NC STATE SENATE DIST 20 NC SENATE D

DEM-Floyd B. McKissick, Jr.	416
LIB-Barbara Howe	165
Over Votes	1
Under Votes	66
Total Votes	648

1047_NC STATE SENATE DIST 22 NC SENATE D

REP-T. Greg Doucette	74
DEM-Mike Woodard	33
Over Votes	0
Under Votes	4
Total Votes	111

1106_NC HOUSE OF REPRESENTATIVES D NC HD

DEM-H.M. (Mickey) Michaux, Jr.	413
Over Votes	0
Under Votes	111
Total Votes	524

1125_NC HOUSE OF REPRESENTATIVES D NC HD

REP-Rod Chaney	164
DEM-Graig R. Meyer	58
Over Votes	0
Under Votes	13
Total Votes	235

0001_DURHAM CO BD OF COMMISSIONER Number to Vote For: 5

DEM-Heidi Carter	397
DEM-James Hill	393
DEM-Brenda Howerton	373
DEM-Wendy Jacobs	376
DEM-Ellen Reckhow	377
Write In	16
Over Votes	145
Under Votes	1718
Total Votes	3795

0002_DURHAM CO REGISTER OF DEEDS

0001.DURHAM CO BD OF COMMISSIONER
Number to Vote For: 5

DEM-Heidi Carter	397
DEM-James Hill	393
DEM-Brenda Howerton	373
DEM-Wendy Jacobs	376
DEM-Ellen Reckhow	377
Write In	16
Over Votes	145
Under Votes	1718
Total Votes	3795

0002.DURHAM CO REGISTER OF DEEDS

DEM-Sharon A. Davis	556
Over Votes	0
Under Votes	203
Total Votes	759

1393.NC SUPREME COURT ASSOCIATE JU

Michael R. (Mike) Morgan	404
Robert H. (Bob) Edmunds	246
Over Votes	0
Under Votes	109
Total Votes	759

1198.NC COURT OF APPEALS JUDGE (ST

REP-Phil Berger, Jr.	288
DEM-Linda Stephens	433
Over Votes	0
Under Votes	38
Total Votes	759

1396.NC COURT OF APPEALS JUDGE (GE

REP-Hunter Murphy	272
DEM-Margaret Eagles	394
UNA-Donald Ray Buie	47
Over Votes	0
Under Votes	46
Total Votes	759

1197.NC COURT OF APPEALS JUDGE (HU

REP-Bob Hunter	308
DEM-Abe Jones	402
Over Votes	0
Under Votes	49
Total Votes	759

1199.NC COURT OF APPEALS JUDGE (DI

REP-Richard Dietz	301
DEM-Vince Rozier	409
Over Votes	0
Under Votes	49
Total Votes	759

1373.NC COURT OF APPEALS JUDGE (ZA

REP-Valerie Zachary	311
DEM-Ricky McRoy-Mitchell	395
Over Votes	0
Under Votes	53
Total Votes	759

1283.NC DIST COURT JUDGE DIST 14 (14TH

Under Votes	53
Total Votes	759

1283_NC DIST COURT JUDGE DIST 14 (14TH

William A. (Drew) Marsh III	379
Shamieka LaCher Rhinehart	277
Over Votes	1
Under Votes	102
Total Votes	759

0003_SOIL AND WATER CONSERVATION D

Danielle Adams	450
Michael Van Sickle	155
Write In	6
Over Votes	3
Under Votes	145
Total Votes	759

0004_SCHOOL BONDS

Yes	478
No	222
Over Votes	0
Under Votes	59
Total Votes	759

0006_LIBRARY FACILITIES BONDS

Yes	444
No	257
Over Votes	0
Under Votes	58
Total Votes	759

0005_COMMUNITY COLLEGE BONDS

Yes	479
No	222
Over Votes	0
Under Votes	58
Total Votes	759

0007_MUSEUM BONDS

Yes	453
No	243
Over Votes	1
Under Votes	62
Total Votes	759

WE, THE UNDERSIGNED, DO HEREBY CERTIFY THAT THE ABOVE RESULTS ARE A TRUE AND ACCURATE ACCOUNT OF THE ELECTION HELD NOVEMBER 3, 2016, AND THAT ALL BALLOTS WERE ZERO (0) WHEN THE POLLS CLOSED AND THAT THE ELECTION WAS HELD IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH CAROLINA.

W. Reynolds
CHIEF JUDGE

Kathleen Laguer
JUDGE

K. McElroy
JUDGE

Durham County, NC
Durham County, NC General Election
0060 DS-SRL
Election Date: November 08, 2016
DS-SRL

Ballot Types:
all

21973
Total: 21973

*** Voting Results Report ***
16:54:02 11/08/2016

Durham County, NC
Durham County, NC General Election
0060 DS-SRL
Election Date: November 08, 2016
Total Number Voting: 21973

Precinct Results Report

DS-SRL

Total Ballots	21973
Ballots for Code 00001-01-01	1948
Ballots for Code 00002-01-01	225
Ballots for Code 00003-01-01	2731
Ballots for Code 00004-01-01	44
Ballots for Code 00005-01-01	1776
Ballots for Code 00006-01-01	6185
Ballots for Code 00007-01-01	13
Ballots for Code 00008-01-01	269
Ballots for Code 00009-01-01	934
Ballots for Code 00010-01-01	715
Ballots for Code 00011-01-01	758
Ballots for Code 00012-01-01	6375

1001_US PRESIDENT

REP-Donald J. Trump	2783
DEM-Hillary Clinton	18323
LIB-Gary Johnson	507
Write In	292
Over Votes	2
Under Votes	66
Total Votes	21973

1002_US SENATE

REP-Richard Burr	3459
DEM-Deborah K. Ross	17905
LIB-Sean Haugh	452
Over Votes	3
Under Votes	154
Total Votes	21973

1380_US HOUSE OF REPRESENTATIVES D CONGR

REP-H. Powell Dew, Jr.	1465
DEM-G. K. Butterfield	11163
LIB-J.J. Summrell	330
Over Votes	0
Under Votes	233
Total Votes	13191

1383_US HOUSE OF REPRESENTATIVES D CONGR

REP-Sue Googe	1733
DEM-David Price	6867
Over Votes	0
Under Votes	182
Total Votes	8782

Under Votes	182
Total Votes	8782

1016_NC GOVERNOR

REP-Pat McGrory	3078
DEM-Roy Cooper	18471
LIB-Lon Cecil	320
Over Votes	1
Under Votes	103
Total Votes	21973

1395_NC LIEUTENANT GOVERNOR

REP-Dan Forest	3386
DEM-Linda Coleman	17728
LIB-Jacki Cole	505
Over Votes	1
Under Votes	353
Total Votes	21973

1022_NC ATTORNEY GENERAL

REP-Buck Newton	3076
DEM-Josh Stein	18433
Over Votes	1
Under Votes	463
Total Votes	21973

1019_NC AUDITOR

REP-Chuck Stuber	3696
DEM-Beth A. Wood	17571
Over Votes	2
Under Votes	704
Total Votes	21973

1023_NC COMMISSIONER OF AGRICULTUR

REP-Steve Troxler	4421
DEM-Walter Smith	16922
Over Votes	0
Under Votes	630
Total Votes	21973

1025_NC COMMISSIONER OF INSURANCE

REP-Mike Causey	3211
DEM-Wayne Goodwin	18018
Over Votes	2
Under Votes	742
Total Votes	21973

1024_NC COMMISSIONER OF LABOR

REP-Cherie Berry	4275
DEM-Charles Meeker	17093
Write In	22
Over Votes	5
Under Votes	578
Total Votes	21973

1018_NC SECRETARY OF STATE

REP-Michael LaPaglia	2975
DEM-Elaine Marshall	18437
Over Votes	0
Under Votes	561
Total Votes	21973

1021_NC SUPERINTENDENT OF PUBLIC I

REP-Mark Johnson	3783
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1018_NC SECRETARY OF STATE

REP-Michael LaPaglia	2975
DEM-Elaine Marshall	18437
Over Votes	0
Under Votes	561
Total Votes	21973

1021_NC SUPERINTENDENT OF PUBLIC I

REP-Mark Johnson	3283
DEM-June Atkinson	18048
Over Votes	0
Under Votes	642
Total Votes	21973

1020_NC TREASURER

REP-Dale R. Folwell	3555
DEM-Dan Blue III	17737
Over Votes	1
Under Votes	680
Total Votes	21973

1045_NC STATE SENATE DIST 20 NC SENATE D

DEM-Floyd B. McKissick, Jr.	8295
LIB-Barbara Howe	1159
Over Votes	8
Under Votes	377
Total Votes	9839

1047_NC STATE SENATE DIST 22 NC SENATE D

REP-T. Greg Doucette	2493
DEM-Mike Woodard	9187
Over Votes	0
Under Votes	454
Total Votes	12134

1104_NC HOUSE OF REPRESENTATIVES D NC HD

DEM-Larry D. Hall	9480
Over Votes	0
Under Votes	1128
Total Votes	10608

1105_NC HOUSE OF REPRESENTATIVES D NC HD

REP-Elissa Fuchs	1778
DEM-Paul Luebke	6772
Over Votes	0
Under Votes	360
Total Votes	8910

1106_NC HOUSE OF REPRESENTATIVES D NC HD

DEM-H.M. (Mickey) Michaux, Jr.	1977
Over Votes	0
Under Votes	196
Total Votes	2173

1125_NC HOUSE OF REPRESENTATIVES D NC HD

REP-Rod Chaney	89
DEM-Graig R. Meyer	185
Over Votes	0
Under Votes	8
Total Votes	282

Total Votes 282

0001_DURHAM CO BD OF COMMISSIONER
Number to Vote For: 5

DEM-Heidi Carter	16659
DEM-James Hill	16382
DEM-Brenda Howerton	16433
DEM-Wendy Jacobs	16482
DEM-Ellen Reckhow	16413
Write In	268
Over Votes	1760
Under Votes	25408

Total Votes 109865

0002_DURHAM CO REGISTER OF DEEDS

DEM-Sharon A. Davis	18935
Over Votes	0
Under Votes	3038

Total Votes 21973

1393_NC SUPREME COURT ASSOCIATE JU

Michael R. (Mike) Morgan	15035
Robert H. (Bob) Edmunds	4432
Over Votes	9
Under Votes	2497

Total Votes 21973

1198_NC COURT OF APPEALS JUDGE (ST

REP-Phil Berger, Jr.	3150
DEM-Linda Stephens	18108
Over Votes	2
Under Votes	713

Total Votes 21973

1396_NC COURT OF APPEALS JUDGE (GE

REP-Hunter Murphy	2893
DEM-Margaret Eagles	17291
UNA-Donald Ray Buie	964
Over Votes	1
Under Votes	824

Total Votes 21973

1197_NC COURT OF APPEALS JUDGE (HU

REP-Bob Hunter	3681
DEM-Abe Jones	17414
Over Votes	1
Under Votes	877

Total Votes 21973

1199_NC COURT OF APPEALS JUDGE (DI

REP-Richard Dietz	3605
DEM-Vince Rozier	17456
Over Votes	2
Under Votes	910

Total Votes 21973

1373_NC COURT OF APPEALS JUDGE (ZA

REP-Valerie Zachary	3732
DEM-Rickye McKoy-Mitchell	17293
Over Votes	3
Under Votes	945

Total Votes 21973

1283_NC DIST COURT JUDGE DIST 14 (14TH

Under Votes 945

Total Votes 21973

1283_NC DIST COURT JUDGE DIST 14 (14TH

William A. (Drew) Marsh III 7139

Shanteka LaCher Rhinehart 12630

Over Votes 17

Under Votes 2187

Total Votes 21973

0003_SOIL AND WATER CONSERVATION D

Dantelle Adams 16340

Michael Van Sickle 2513

Write In 75

Over Votes 0

Under Votes 3045

Total Votes 21973

0004_SCHOOL BONDS

Yes 18518

No 2731

Over Votes 8

Under Votes 716

Total Votes 21973

0006_LIBRARY FACILITIES BONDS

Yes 17708

No 3495

Over Votes 4

Under Votes 766

Total Votes 21973

0005_COMMUNITY COLLEGE BONDS

Yes 18155

No 3057

Over Votes 10

Under Votes 751

Total Votes 21973

0007_MUSEUM BONDS

Yes 17062

No 4118

Over Votes 1

Under Votes 792

Total Votes 21973

WE, THE UNDERSIGNED, DO HEREBY CERTIFY
THAT THE ABOVE RESULTS ARE A TRUE AND
ACCURATE ACCOUNT OF THE ELECTION HELD
NOVEMBER 8, 2016, AND THAT ALL
COUNTERS WERE ZERO (0) WHEN THE POLLS
OPENED AND THAT THE ELECTION WAS HELD
IN ACCORDANCE WITH THE LAWS OF THE
STATE OF NORTH CAROLINA

CHIEF JUDGE

JUDGE

JUDGE

*** Status Report ***
17:18:30 11/08/2016

Durham County, NC
Durham County, NC General Election
0059 OS-NRL
Election Date: November 08, 2016
OS-NRL

Ballot Types:
all

19353
Total: 19353

*** Voting Results Report ***
17:18:32 11/08/2016

Durham County, NC
Durham County, NC General Election
0059 OS-NRL
Election Date: November 08, 2016
Total Number Voting: 19353

Precinct Results Report

OS-NRL

Total Ballots	19353
Ballots for Code 00001-01-01	5138
Ballots for Code 00002-01-01	797
Ballots for Code 00003-01-01	51
Ballots for Code 00004-01-01	36
Ballots for Code 00005-01-01	2781
Ballots for Code 00006-01-01	211
Ballots for Code 00007-01-01	714
Ballots for Code 00008-01-01	9569
Ballots for Code 00009-01-01	6
Ballots for Code 00010-01-01	7
Ballots for Code 00011-01-01	5
Ballots for Code 00012-01-01	38

1001_US PRESIDENT

REP-Donald J. Trump	6442
DEM-Hillary Clinton	12090
LIB-Gary Johnson	424
Write In	262
Over Votes	10
Under Votes	125
Total Votes	19353

1002_US SENATE

REP-Richard Burr	6916
DEM-Deborah K. Ross	11800
LIB-Sean Haugh	451
Over Votes	3
Under Votes	183
Total Votes	19353

1380_US HOUSE OF REPRESENTATIVES D CONGR

REP-H. Powell Dew, Jr.	6438
DEM-G. K. Butterfield	11768
LIB-J.J. Summerville	501
Over Votes	2
Under Votes	588
Total Votes	19297

1383_US HOUSE OF REPRESENTATIVES D CONGR

REP-Sue Googe	17
DEM-David Price	39
n	0

Total Votes 19297

1383_US HOUSE OF REPRESENTATIVES D CONGR

REP-Sue Googe 17
DEM-David Price 39
Over Votes 0
Under Votes 0

Total Votes 56

1016_NC GOVERNOR

REP-Pat McGrory 6613
DEM-Roy Cooper 12341
LIB-Lon Cecil 276
Over Votes 4
Under Votes 119

Total Votes 19353

1395_NC LIEUTENANT GOVERNOR

REP-Dan Forest 7019
DEM-Linda Coleman 11570
LIB-Jacki Cole 389
Over Votes 3
Under Votes 372

Total Votes 19353

1022_NC ATTORNEY GENERAL

REP-Buck Newton 6445
DEM-Josh Stein 12414
Over Votes 1
Under Votes 493

Total Votes 19353

1019_NC AUDITOR

REP-Chuck Stuber 6523
DEM-Beth A. Wood 12067
Over Votes 1
Under Votes 762

Total Votes 19353

1023_NC COMMISSIONER OF AGRICULTUR

REP-Steve Troxler 7847
DEM-Walter Smith 10921
Over Votes 0
Under Votes 585

Total Votes 19353

1025_NC COMMISSIONER OF INSURANCE

REP-Mike Causey 6329
DEM-Wayne Goodwin 12265
Over Votes 1
Under Votes 758

Total Votes 19353

1024_NC COMMISSIONER OF LABOR

REP-Cherie Berry 7284
DEM-Charles Meeker 11430
Write In 15
Over Votes 6
Under Votes 618

Total Votes 19353

1018_NC SECRETARY OF STATE

REP-Michael LaPaglia 6042
DEM 10677

REP-Michael LaPaglia	6042
DEM-Elaine Marshall	12677
Over Votes	2
Under Votes	632
Total Votes	19353

1021.NC SUPERINTENDENT OF PUBLIC I

REP-Mark Johnson	6278
DEM-June Atkinson	12408
Over Votes	0
Under Votes	667
Total Votes	19353

1020.NC TREASURER

REP-Dale R. Folwell	6777
DEM-Dan Blue III	11866
Over Votes	2
Under Votes	708
Total Votes	19353

1045.NC STATE SENATE DIST 20 NC SENATE D

DEM-Floyd B. McKissick, Jr.	4825
LIB-Barbara Howe	886
Over Votes	6
Under Votes	395
Total Votes	6112

1047.NC STATE SENATE DIST 22 NC SENATE D

REP-T. Greg Doucette	5293
DEM-Mike Woodard	7339
Over Votes	2
Under Votes	607
Total Votes	13241

1104.NC HOUSE OF REPRESENTATIVES D NC HO

DEM-Larry D. Hall	234
Over Votes	0
Under Votes	39
Total Votes	273

1105.NC HOUSE OF REPRESENTATIVES D NC HO

REP-Elissa Fuchs	1133
DEM-Paul Luebke	1575
Over Votes	2
Under Votes	152
Total Votes	2862

1106.NC HOUSE OF REPRESENTATIVES D NC HO

DEM-H. M. (Hickey) Michaux, Jr.	5037
Over Votes	0
Under Votes	898
Total Votes	5935

1125.NC HOUSE OF REPRESENTATIVES D NC HO

REP-Rod Chaney	4485
DEM-Graig R. Meyer	5346
Over Votes	1
Under Votes	451
Total Votes	10283

0001.DURHAM CO BD OF COMMISSIONER
Number to Vote For: 5

0001.DURHAM CO BD OF COMMISSIONER
Number to Vote For: 5

DEM-Heidi Carter	12385
DEM-James Hill	12346
DEM-Brenda Howerton	11844
DEM-Wendy Jacobs	12085
DEM-Ellen Reckhow	12680
Write In	280
Over Votes	1560
Under Votes	33585
Total Votes	96765

0002.DURHAM CO REGISTER OF DEEDS

DEM-Sharon A. Davis	14698
Over Votes	0
Under Votes	4655
Total Votes	19353

1393_NC SUPREME COURT ASSOCIATE JU

Michael R. (Mike) Morgan	10769
Robert H. (Bob) Edmunds	5955
Over Votes	10
Under Votes	2619
Total Votes	19353

1198_NC COURT OF APPEALS JUDGE (ST

REP-Phil Berger, Jr.	6435
DEM-Linda Stephens	12199
Over Votes	5
Under Votes	714
Total Votes	19353

1396_NC COURT OF APPEALS JUDGE (GE

REP-Hunter Murphy	6285
DEM-Margaret Eagles	11384
UNA-Donald Ray Buie	797
Over Votes	9
Under Votes	878
Total Votes	19353

1197_NC COURT OF APPEALS JUDGE (HU

REP-Bob Hunter	7120
DEM-Abe Jones	11283
Over Votes	3
Under Votes	947
Total Votes	19353

1199_NC COURT OF APPEALS JUDGE (DI

REP-Richard Dietz	6907
DEM-Vince Rozier	11443
Over Votes	3
Under Votes	1000
Total Votes	19353

1373_NC COURT OF APPEALS JUDGE (ZA

REP-Valerie Zachary	7080
DEM-Rickye McKay-Mitchell	11220
Over Votes	2
Under Votes	1051
Total Votes	19353

1283_NC DIST COURT JUDGE DIST 14 (14TH

William A. (Drew) Marsh III	8062
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Total Votes 19353

1283_NC DIST COURT JUDGE DIST 14 (14TH

William A. (Drew) Marsh III 8062
Shanteka LaCher Rhinehart 8681
Over Votes 8
Under Votes 2602

Total Votes 19353

0003_SOIL AND WATER CONSERVATION D

Danielle Adams 12380
Michael Van Sickle 3134
Write In 122
Over Votes 5
Under Votes 3712

Total Votes 19353

0004_SCHOOL BONDS

Yes 14457
No 4092
Over Votes 11
Under Votes 793

Total Votes 19353

0006_LIBRARY FACILITIES BONDS

Yes 13499
No 4944
Over Votes 4
Under Votes 906

Total Votes 19353

0005_COMMUNITY COLLEGE BONDS

Yes 14158
No 4306
Over Votes 4
Under Votes 885

Total Votes 19353

0007_MUSEUM BONDS

Yes 13373
No 5089
Over Votes 2
Under Votes 889

Total Votes 19353

WE, THE UNDERSIGNED, DO HEREBY CERTIFY
THAT THE ABOVE RESULTS ARE A TRUE AND
ACCURATE ACCOUNT OF THE ELECTION HELD
NOVEMBER 8, 2016, AND THAT ALL
COUNTERS WERE ZERO (0) WHEN THE POLLS
OPENED AND THAT THE ELECTION WAS HELD
IN ACCORDANCE WITH THE LAWS OF THE
STATE OF NORTH CAROLINA.

CHIEF JUDGE

JUDGE

JUDGE

*** Status Report ***
17:26:00 11/08/2016

Durham County, NC
Durham County, NC General Election
0061 OS-ERL
Election Date: November 08, 2016
OS-ERL

Ballot Types:
all

14875
Total: 14875

*** Voting Results Report ***
17:26:02 11/08/2016

Durham County, NC
Durham County, NC General Election
0061 OS-ERL
Election Date: November 08, 2016
Total Number Voting: 14875

Precinct Results Report

OS-ERL

Total Ballots	14875
Ballots for Code 00001-01-01	7959
Ballots for Code 00002-01-01	241
Ballots for Code 00003-01-01	61
Ballots for Code 00004-01-01	114
Ballots for Code 00005-01-01	2955
Ballots for Code 00006-01-01	338
Ballots for Code 00007-01-01	140
Ballots for Code 00008-01-01	2616
Ballots for Code 00009-01-01	64
Ballots for Code 00010-01-01	10
Ballots for Code 00011-01-01	28
Ballots for Code 00012-01-01	289

1001_US PRESIDENT

REP-Donald J. Trump	3724
DEM-Hillary Clinton	10540
LIB-Gary Johnson	352
Write In	197
Over Votes	2
Under Votes	60
Total Votes	14875

1002_US SENATE

REP-Richard Burr	4000
DEM-Deborah K. Ross	10379
LIB-Sean Haugh	358
Over Votes	2
Under Votes	136
Total Votes	14875

1380_US HOUSE OF REPRESENTATIVES D CONGR

REP-H. Powell Dew, Jr.	3614
DEM-G. K. Butterfield	10119
LIB-J. J. Sumnerell	387
Over Votes	0
Under Votes	364
Total Votes	14484

1383_US HOUSE OF REPRESENTATIVES D CONGR

REP-Sue Googe	92
DEM-David Price	289
Over Votes	0
Under Votes	10
Total Votes	391

1016_NC GOVERNOR

REP-Pat McGrory	3909
DEM-Roy Cooper	10667
LIB-Lon Cecil	216
Over Votes	3
Under Votes	80
Total Votes	14875

1395_NC LIEUTENANT GOVERNOR

REP-Dan Forest	3971
DEM-Linda Coleman	10302
LIB-Jacki Cole	349
Over Votes	1
Under Votes	252
Total Votes	14875

1022_NC ATTORNEY GENERAL

REP-Buck Newton	3800
DEM-Josh Stein	10746
Over Votes	1
Under Votes	328
Total Votes	14875

1019_NC AUDITOR

REP-Chuck Stuber	3836
DEM-Beth A. Wood	10518
Over Votes	2
Under Votes	519
Total Votes	14875

1023_NC COMMISSIONER OF AGRICULTUR

REP-Steve Troxler	4571
DEM-Walter Smith	9888
Over Votes	0
Under Votes	416
Total Votes	14875

1025_NC COMMISSIONER OF INSURANCE

REP-Mike Causey	3822
DEM-Wayne Goodwin	10535
Over Votes	0
Under Votes	518
Total Votes	14875

1024_NC COMMISSIONER OF LABOR

REP-Cherie Berry	4446
DEM-Charles Meeker	10009
Write In	13
Over Votes	5
Under Votes	402
Total Votes	14875

Total Votes 14875

1018_NC SECRETARY OF STATE

REP-Michael LaPaglia	3605
DEM-Elaine Marshall	10843
Over Votes	2
Under Votes	425
Total Votes	14875

1021_NC SUPERINTENDENT OF PUBLIC I

REP-Mark Johnson	3791
DEM-June Atkinson	10630
Over Votes	2
Under Votes	452
Total Votes	14875

1020_NC TREASURER

REP-Dale R. Folwell	4023
DEM-Dan Blue III	10373
Over Votes	4
Under Votes	475
Total Votes	14875

1045_NC STATE SENATE DIST 20 NC SENATE D

DEM-Floyd B. McKissick, Jr.	7044
L1B-Barbara Howe	1169
Over Votes	9
Under Votes	463
Total Votes	8685

1047_NC STATE SENATE DIST 22 NC SENATE D

REP-T. Greg Doucette	2521
DEM-Mike Woodard	3366
Over Votes	0
Under Votes	303
Total Votes	6190

1104_NC HOUSE OF REPRESENTATIVES D NC HD

DEM-Larry D. Hall	505
Over Votes	0
Under Votes	46
Total Votes	551

1105_NC HOUSE OF REPRESENTATIVES D NC HD

REP-Elissa Fuchs	1040
DEM-Paul Luebke	2193
Over Votes	1
Under Votes	134
Total Votes	3368

1106_NC HOUSE OF REPRESENTATIVES D NC HD

DEM-H. M. (Hickey) Michaux, Jr.	7097
Over Votes	0
Under Votes	1103
Total Votes	8200

1125_NC HOUSE OF REPRESENTATIVES D NC HD

REP-Rod Chaney	1544
DEM-Graig R. Meyer	1053
Over Votes	0
Under Votes	159
Total Votes	2756

Over Votes	0
Under Votes	159
Total Votes	2756

0001_DURHAM CO BD OF COMMISSIONER
Number to Vote For: 5

DEM-Heidi Carter	9823
DEM-James Hill	9896
DEM-Brenda Howerton	9794
DEM-Wendy Jacobs	9767
DEM-Ellen Reckhow	9781
Write In	189
Over Votes	1480
Under Votes	23545
Total Votes	74375

0002_DURHAM CO REGISTER OF DEEDS

DEM-Sharon A. Davis	11920
Over Votes	0
Under Votes	2955
Total Votes	14875

1393_NC SUPREME COURT ASSOCIATE JU

Michael R. (Mike) Morgan	9284
Robert H. (Bob) Edmunds	3735
Over Votes	3
Under Votes	1853
Total Votes	14875

1198_NC COURT OF APPEALS JUDGE (ST

REP-Phil Berger, Jr.	3754
DEM-Linda Stephens	10602
Over Votes	1
Under Votes	518
Total Votes	14875

1396_NC COURT OF APPEALS JUDGE (GE

REP-Hunter Murphy	3639
DEM-Margaret Eagles	10002
UNA-Donald Ray Buie	655
Over Votes	4
Under Votes	575
Total Votes	14875

1197_NC COURT OF APPEALS JUDGE (HU

REP-Bob Hunter	4100
DEM-Abe Jones	10149
Over Votes	4
Under Votes	622
Total Votes	14875

1199_NC COURT OF APPEALS JUDGE (DI

REP-Richard Dietz	4008
DEM-Vince Rozier	10225
Over Votes	0
Under Votes	642
Total Votes	14875

1373_NC COURT OF APPEALS JUDGE (ZA

REP-Valerie Zachary	4124
DEM-Rickye McKoy-Mitchell	10081
Over Votes	2
Under Votes	668
Total Votes	14875

Total Votes 14875

1283_NC DIST COURT JUDGE DIST 14 (14TH

William A. (Drew) Marsh III	5531
Shanteka LaCher Rhinehart	7502
Over Votes	8
Under Votes	1834
Total Votes	14875

0003_SOIL AND WATER CONSERVATION D

Danielle Adams	10356
Michael Van Sickle	2045
Write In	67
Over Votes	5
Under Votes	2402
Total Votes	14875

0004_SCHOOL BONDS

Yes	11279
No	2948
Over Votes	16
Under Votes	632
Total Votes	14875

0006_LIBRARY FACILITIES BONDS

Yes	10757
No	3445
Over Votes	2
Under Votes	671
Total Votes	14875

0005_COMMUNITY COLLEGE BONDS

Yes	11054
No	3134
Over Votes	4
Under Votes	683
Total Votes	14875

0007_MUSEUM BONDS

Yes	10394
No	3818
Over Votes	0
Under Votes	663
Total Votes	14875

WE, THE UNDERSIGNED, DO HEREBY CERTIFY
THAT THE ABOVE RESULTS ARE A TRUE AND
ACCURATE ACCOUNT OF THE ELECTION HELD
NOVEMBER 8, 2016, AND THAT ALL
COUNTERS WERE ZERO (0) WHEN THE POLLS
OPENED AND THAT THE ELECTION WAS HELD
IN ACCORDANCE WITH THE LAWS OF THE
STATE OF NORTH CAROLINA.

CHIEF JUDGE

JUDGE

JUDGE

*** Status Report ***
17:00:10 11/08/2016

Durham County, NC
Durham County, NC General Election
0062 OS-END
Election Date: November 08, 2016
OS-END

Ballot Types:
all

18281
Total: 18281

*** Voting Results Report ***
17:00:12 11/08/2016

Durham County, NC
Durham County, NC General Election
0062 OS-END
Election Date: November 08, 2016
Total Number Voting: 18281

Precinct Results Report

OS-END

Total Ballots	18281
Ballots for Code 00001-01-01	441
Ballots for Code 00002-01-01	172
Ballots for Code 00003-01-01	2931
Ballots for Code 00004-01-01	334
Ballots for Code 00005-01-01	10056
Ballots for Code 00006-01-01	1744
Ballots for Code 00007-01-01	11
Ballots for Code 00008-01-01	143
Ballots for Code 00009-01-01	45
Ballots for Code 00010-01-01	20
Ballots for Code 00011-01-01	198
Ballots for Code 00012-01-01	2186

1001_US PRESIDENT

REP-Donald J. Trump	2870
DEM-Hillary Clinton	14586
LIB-Gary Johnson	440
Write In	279
Over Votes	7
Under Votes	99
Total Votes	18281

1002_US SENATE

REP-Richard Burr	3750
DEM-Deborah K. Ross	14056
LIB-Sean Haugh	324
Over Votes	3
Under Votes	148
Total Votes	18281

1380_US HOUSE OF REPRESENTATIVES D CONGR

REP-H. Powell Dew, Jr.	2943
DEM-G. K. Butterfield	12121

Under Votes	372
Total Votes	15832

1383_US HOUSE OF REPRESENTATIVES D CONGR

REP-Sue Googe	451
DEM-David Price	1927
Over Votes	0
Under Votes	71
Total Votes	2449

1016_NC GOVERNOR

REP-Pat McGrory	3185
DEM-Roy Cooper	14752
LIB-Lon Cecil	240
Over Votes	4
Under Votes	100
Total Votes	18281

1395_NC LIEUTENANT GOVERNOR

REP-Dan Forest	3709
DEM-Linda Coleman	13852
LIB-Jacki Cole	367
Over Votes	3
Under Votes	350
Total Votes	18281

1022_NC ATTORNEY GENERAL

REP-Buck Newton	3340
DEM-Josh Stein	14485
Over Votes	1
Under Votes	455
Total Votes	18281

1019_NC AUDITOR

REP-Chuck Stuber	4018
DEM-Beth A. Wood	13550
Over Votes	3
Under Votes	710
Total Votes	18281

1023_NC COMMISSIONER OF AGRICULTUR

REP-Steve Troxler	4652
DEM-Walter Smith	12976
Over Votes	3
Under Votes	650
Total Votes	18281

1025_NC COMMISSIONER OF INSURANCE

REP-Mike Causey	3507
DEM-Wayne Goodwin	14012
Over Votes	1
Under Votes	761
Total Votes	18281

1024_NC COMMISSIONER OF LABOR

REP-Cherie Berry	4411
DEM-Charles Meeker	13281
Write In	11
Over Votes	2
Under Votes	576
Total Votes	18281

1018_NC SECRETARY OF STATE

DCD M...L...I...D...1... 27CA

1018_NC SECRETARY OF STATE

REP-Michael LaPaglia	3254
DEM-Elaine Marshall	14461
Over Votes	0
Under Votes	566
Total Votes	18281

1021_NC SUPERINTENDENT OF PUBLIC I

REP-Mark Johnson	3400
DEM-June Atkinson	14261
Over Votes	0
Under Votes	620
Total Votes	18281

1020_NC TREASURER

REP-Dale R. Folwell	3849
DEM-Dan Blue III	13769
Over Votes	2
Under Votes	661
Total Votes	18281

1045_NC STATE SENATE DIST 20 NC SENATE D

DEM-Floyd B. McKissick, Jr.	2096
LIB-Barbara Howe	340
Over Votes	5
Under Votes	154
Total Votes	2595

1047_NC STATE SENATE DIST 22 NC SENATE D

REP-T. Greg Doucette	3276
DEM-Mike Woodard	11779
Over Votes	5
Under Votes	626
Total Votes	15686

1104_NC HOUSE OF REPRESENTATIVES D NC HD

DEM-Larry D. Hall	4286
Over Votes	0
Under Votes	632
Total Votes	4918

1105_NC HOUSE OF REPRESENTATIVES D NC HD

REP-Elissa Fuchs	2652
DEM-Paul Luebke	9381
Over Votes	1
Under Votes	562
Total Votes	12596

1106_NC HOUSE OF REPRESENTATIVES D NC HD

DEM-H.M. (Mickey) Michaux, Jr.	558
Over Votes	0
Under Votes	55
Total Votes	613

1125_NC HOUSE OF REPRESENTATIVES D NC HD

REP-Rod Chaney	44
DEM-Graig R. Meyer	103
Over Votes	0
Under Votes	7
Total Votes	154

Total Votes

154

0001_DURHAM CO BD OF COMMISSIONER
Number to Vote For: 5

DEM-Heidi Carter	14392
DEM-James Hill	13921
DEM-Brenda Howerton	13896
DEM-Wendy Jacobs	14214
DEM-Ellen Reckhow	14376
Write In	191
Over Votes	1135
Under Votes	19280

Total Votes	91405
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0002_DURHAM CO REGISTER OF DEEDS

DEM-Sharon A. Davis	15245
Over Votes	0
Under Votes	3036

Total Votes	18281
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1393_NC SUPREME COURT ASSOCIATE JU

Michael R. (Mike) Morgan	11975
Robert H. (Bob) Edmunds	4250
Over Votes	12
Under Votes	2044

Total Votes	18281
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1198_NC COURT OF APPEALS JUDGE (ST

REP-Phil Berger, Jr.	3417
DEM-Linda Stephens	14169
Over Votes	1
Under Votes	694

Total Votes	18281
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1396_NC COURT OF APPEALS JUDGE (GE

REP-Hunter Murphy	3255
DEM-Margaret Eagles	13586
UNA-Donald Ray Bute	665
Over Votes	4
Under Votes	771

Total Votes	18281
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1197_NC COURT OF APPEALS JUDGE (HU

REP-Bob Hunter	4116
DEM-Abe Jones	13327
Over Votes	3
Under Votes	835

Total Votes	18281
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1199_NC COURT OF APPEALS JUDGE (DI

REP-Richard Dietz	3878
DEM-Vince Rozier	13531
Over Votes	1
Under Votes	871

Total Votes	18281
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1373_NC COURT OF APPEALS JUDGE (ZA

REP-Valerie Zachary	4036
DEM-Rickye McKoy-Mitchell	13317
Over Votes	1
Under Votes	927

Total Votes	18281
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1283_NC DIST COURT JUDGE DIST 14 (14TH

Total Votes 18281

1283_NC DIST COURT JUDGE DIST 14 (14TH

William A. (Drew) Marsh III 5236
Shanieka LaCher Rhinehart 10834
Over Votes 4
Under Votes 2207

Total Votes 18281

0003_SOIL AND WATER CONSERVATION D

Dantelle Adams 12834
Michael Van Sickle 2161
Write In 73
Over Votes 1
Under Votes 3212

Total Votes 18281

0004_SCHOOL BONDS

Yes 15517
No 2098
Over Votes 8
Under Votes 658

Total Votes 18281

0006_LIBRARY FACILITIES BONDS

Yes 14656
No 2873
Over Votes 4
Under Votes 748

Total Votes 18281

0005_COMMUNITY COLLEGE BONDS

Yes 15141
No 2410
Over Votes 4
Under Votes 726

Total Votes 18281

0007_MUSEUM BONDS

Yes 14297
No 3204
Over Votes 5
Under Votes 775

Total Votes 18281

WE, THE UNDERSIGNED, DO HEREBY CERTIFY
THAT THE ABOVE RESULTS ARE A TRUE AND
ACCURATE ACCOUNT OF THE ELECTION HELD
NOVEMBER 8, 2016, AND THAT ALL
COUNTERS WERE ZERO (0) WHEN THE POLLS
OPENED AND THAT THE ELECTION WAS HELD
IN ACCORDANCE WITH THE LAWS OF THE
STATE OF NORTH CAROLINA.

CHIEF JUDGE

JUDGE

JUDGE

Memorandum



NORTH CAROLINA

State Board of Elections

Mailing Address:
P.O. Box 27255
Raleigh, NC 27611-7255

Phone: (919) 733-7173
Fax: (919) 715-0135

KIM WESTBROOK STRACH
Executive Director

TO: State Board Members

FROM: SBE Legal team

RE: Periodic rules review

DATE: November 30, 2016

State Board Members,

We reported in July that the North Carolina State Board of Elections had initiated steps required by G.S. 150B-21.3A for all administrative rules to be reviewed every 10 years. As you may recall, the Board was required to classify our rules according to the following categories:

CATEGORY 1: Necessary with substantive public interest means any rule for which the agency has received public comments within the past two years. *A rule is also "necessary with substantive public interest" if the rule affects the property interest of the regulated public and the agency knows or suspects that any person may object to the rule.* [Emphasis added]

CATEGORY 2: Necessary without substantive public interest means a rule for which the agency has not received a public comment concerning the rule within the past two years. A "necessary without substantive public interest" rule includes a rule that merely identifies information that is readily available to the public, such as an address or a telephone number.

CATEGORY 3: Unnecessary: A rule that the agency determines to be obsolete, redundant, or otherwise not needed.

At the end of this review process, any rules that are "necessary with substantive public interest" must go through the permanent rule-making process to be re-adopted as permanent rules (potentially, with changes), any rules that are "unnecessary" would expire, any rules that are "necessary without substantive public interest" would remain in the Administrative Code.

The Board approved staff recommendations for initial determinations as follows:

CHAPTER 1. DEPARTMENTAL RULES		
08 NCAC 01.0101	AGENCY NAME: ADDRESS: AND HOURS	Category 2
08 NCAC 01.0104	PROCEDURES FOR POLITICAL COMMITTEES	Category 1
CHAPTER 2. ELECTION PROTESTS		
08 NCAC 02 .0109	NO FRIVOLOUS PROTESTS	Category 3*
08 NCAC 02 .0110	ACTIONS OF COUNTY BOARD AS TO ELECTION PROTESTS	Category 1
08 NCAC 02 .0111	ELECTION PROTEST FORM	Category 1
08 NCAC 02 .0112	APPEAL TO THE STATE BOARD OF ELECTIONS	Category 1
08 NCAC 02 .0113	NEW ELECTIONS ORDERED BY STATE BOARD OF ELECTIONS	Category 1
CHAPTER 3. CHARGES AGAINST COUNTY ELECTIONS OFFICIALS		
08 NCAC 03 .0101	VOTER COMPLAINTS	Category 1

08 NCAC 03 .0102	CHARGES	Category 1
08 NCAC 03 .0103	HEARING	Category 1
08 NCAC 03 .0104	RIGHTS	Category 1
08 NCAC 03 .0105	SCOPE	Category 1
08 NCAC 03 .0106	WITNESSES	Category 1
08 NCAC 03 .0201	FILING CHARGES: ADOPTION OF PROCEDURES	Category 1
08 NCAC 03 .0202	HEARING DATE AND DISPOSITION	Category 1
08 NCAC 03 .0301	SUMMARY INVESTIGATION	Category 1
08 NCAC 03 .0302	REPORTS OF EVIDENCE OF CRIMINAL VIOLATION	Category 1
CHAPTER 4. VOTING EQUIPMENT		
08 NCAC 04 .0301	REQUIREMENTS OF VOTING SYSTEMS	Category 1
08 NCAC 04 .0302	APPROVAL OF VOTING SYSTEMS	Category 1
08 NCAC 04 .0303	OFFICIAL BALLOT(S) TO BE USED ON VOTING SYSTEM	Category 3*
08 NCAC 04 .0304	OPERATION AND MATTER OF VOTING ON VOTING SYSTEMS	Category 1
08 NCAC 04 .0305	INSTRUCTION OF PRECINCT OFFICIALS AND VOTERS IN THE USE OF VOTING SYSTEMS	Category 1
08 NCAC 04 .0306	DUTIES OF CUSTODIANS OF VOTING SYSTEMS	Category 1
08 NCAC 04 .0307	TESTING OF VOTING SYSTEM BEFORE USE IN AN ELECTION	Category 1
CHAPTER 5. MODIFIED FULL TIME REGISTRATION SYSTEM		
08 NCAC 05 .0101	PLANS OF REGISTRATION	Category 3*
08 NCAC 05 .0102	DEADLINE FOR ADOPTION	Category 3
08 NCAC 05 .0103	EXCEPTION: MODIFIED PLANS	Category 3
08 NCAC 05 .0104	ADOPTION OF PLAN A OR PLAN B REQUIRED	Category 3
08 NCAC 05 .0105	ADOPTION OF FULL -TIME REGISTRATION REQUIRED	Category 3
08 NCAC 05 .0106	PLAN A	Category 3
08 NCAC 05 .0107	PLAN B	Category 3
08 NCAC 05 .0108	PLAN C	Category 3
08 NCAC 05 .0109	PLAN D	Category 3
08 NCAC 05 .0110	NOTIFICATION OF PLAN ADOPTION	Category 3
CHAPTER 6. PARTISAN ELECTIONS AND BALLOTS – SUBCHAPTER 6B. BALLOTS		
08 NCAC 06 .0101	GENERAL BALLOT GUIDELINES	Category 3*
08 NCAC 06 .0102	USE OF PAPER BALLOTS WHERE VOTING SYSTEMS ARE USED	Category 3
08 NCAC 06 .0103	ARRANGEMENT OF OFFICIAL BALLOTS	Category 1
08 NCAC 06 .0104	LATE CHANGES IN BALLOTS	Category 1
08 NCAC 06 .0105	COUNTING OF OFFICIAL BALLOTS	Category 1
CHAPTER 7. FAXING AND ELECTRONIC TRANSFER OF VOTING INFORMATION		
SUBCHAPTER 7B – SUBMITTING AND ACCEPTING VOTER INFORMATION BY FAX		
08 NCAC 07 .0101	SUBMITTING VOTER REGISTRATION AND CHANGES OF PARTY AFFILIATION	Category 3
08 NCAC 07 .0102	ACCEPTING VOTER REGISTRATION APPLICATIONS	Category 3
CHAPTER 8. COMPLIANCE WITH FEDERAL P.L. 98-435; THE VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED ACT		
08 NCAC 08 .0101	HANDICAPPED TRANSFER	Category 3
08 NCAC 08 .0102	NOTARIZATION REGARDING ABSENTEE VOTING BY HANDICAPPED	Category 3
08 NCAC 08 .0103	CURBSIDE VOTING HOURS EXTENDED	Category 3
08 NCAC 08 .0103	HANDICAPPED TRANSFER PRIOR TO ELECTION DAY	Category 1

CHAPTER 9. CONDUCT OF VOTE RECOUNTS BY COUNTY BOARDS OF ELECTIONS		
08 NCAC 09.0106	GENERAL GUIDELINES	Category 1
08 NCAC 09.0107	RECOUNT OF OPTICAL SCAN/MARKSENSE/PUNCHCARD BALLOTS	Category 1
08 NCAC 09.0108	DIRECT RECORD ELECTRONIC AND LEVER (DIRECT RECORD MECHANICAL) VOTING MACHINES	Category 1
08 NCAC 09.0109	MANUAL HAND TO EYE RECOUNTS	Category 1
CHAPTER 10. BALLOT ROTATION RULES FOR PRIMARY ELECTION BALLOTS		
SUBCHAPTER 10B. VOTING, VOTING PLACES AD PRECINCT OFFICIALS DUTIES AND TASKS		
08 NCAC 10B .0101	TASKS AND DUTIES OF PRECINCT OFFICIALS AT VOTING PLACES	Category 1
08 NCAC 10B .0102	SETTING UP POLLING PLACE PRIOR TO VOTING	Category 2
08 NCAC 10B .0103	VOTING PROCEDURES	Category 1
08 NCAC 10B .0104	LEAVING THE VOTING ENCLOSURE, SPOILED OR INCOMPLETE BALLOTS	Category 1
08 NCAC 10B .0105	PROCEDURES AT THE CLOSE OF VOTING	Category 1
08 NCAC 10B .0106	ELECTION SUPPLIES RETURN	Category 1
08 NCAC 10B .0107	ASSISTANCE TO VOTERS IN PRIMARIES AND GENERAL ELECTIONS	Category 1
08 NCAC 10B .0108	CURBSIDE VOTING	Category 1
CHAPTER 12. RULES FOR MILITARY AND OVERSEAS CITIZENS ABSENTEE VOTING PROCEDURES		
(Note: These rules were adopted under the repealed Article 21 of Chapter 163 of the general statutes, which has been displaced by Article 21A. The current Article contains no rule-making mandates.)		
08 NCAC 12 .0101	DEFINITIONS	Category 3
08 NCAC 12 .0102	ELECTRONIC MAIL (E-MAIL)	Category 3
08 NCAC 12 .0103	APPLICATIONS/REQUESTS	Category 3
08 NCAC 12 .0104	INSTRUCTIONS AND NOTICE; DELIVERY	Category 3
08 NCAC 12 .0105	GENERAL GUIDELINES	Category 3
08 NCAC 12 .0106	PROCESSES BY MAIL	Category 3
08 NCAC 12 .0107	PROCESSES BY FAX	Category 3
08 NCAC 12 .0108	ABSENTEE VOTING BY FACSIMILE (FAX) TRANSMISSION	Category 3
08 NCAC 12 .0109	RECEIVING FACSIMILE (FAX) TRANSMISSIONS	Category 3
08 NCAC 12 .0110	BALLOT VERIFICATION AND SECURITY	Category 3
08 NCAC 12 .0111	OTHER PROVISIONS	Category 3

The agency's required public comment period, which began August 15, 2016, concluded October 14, 2016, without any comment being received by this agency.

Should the Board confirm its earlier approval of staff recommendations for rules classifications, staff will move forward with filing the appropriately designated rules for permanent rule-making to be readopted according to the schedule provided by the Administrative Procedures Act.

01,

G.S. 150B-21.3A Report for 08 NCAC 01, DEPARTMENTAL RULES												
Agency - State Board of Elections												
Comment Period - 8/15/15 - 10/14/16												
Date Submitted to APO - Filled in by RRC staff												
Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
		08 NCAC 01 .0101	AGENCY NAME: ADDRESS: AND HOURS	Amended Eff. May 1, 2012	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Select One	Select One
		08 NCAC 01 .0104	PROCEDURES FOR POLITICAL COMMITTEES	Amended Eff. February 1, 1990	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One

02,

G.S. 150B-21.3A Report for 08 NCAC 02, ELECTION PROCESS												
Agency - State Board of Elections												
Comment Period - 8/15/15 - 10/14/16												
Date Submitted to APO - Filled in by RRC staff												
Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
	SECTION .0100 – ELECTION PROTESTS	08 NCAC 02 .0109	NO FRIVOLOUS PROTESTS	Eff. March 12, 1976	Unnecessary	No		Select One	Select One	Select One	Select One	Select One
		08 NCAC 02 .0110	ACTIONS OF COUNTY BOARD AS TO ELECTION PROTESTS	Eff. August 1, 2004	Necessary with substantive public interest	No		Select One	Select One	Select One	Select One	Select One
		08 NCAC 02 .0111	ELECTION PROTEST FORM	Eff. August 1, 2004	Necessary with substantive public interest	No		Select One	Select One	Select One	Select One	Select One
		08 NCAC 02 .0112	APPEAL TO THE STATE BOARD OF ELECTIONS	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 02 .0113	NEW ELECTIONS ORDERED BY STATE BOARD OF ELECTIONS	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One

03,

G.S. 150B-21.3A Report for 08 NCAC 03, CHARGES AGAINST COUNTY ELECTION OFFICIALS												
Agency - State Board of Elections												
Comment Period - 8/15/15 - 10/14/16												
Date Submitted to APO - Filled in by RRC staff												
Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
	SECTION .0100 - MEMBERS OF COUNTY BOARD OF ELECTIONS	08 NCAC 03 .0101	VOTER COMPLAINTS	Eff. March 12, 1976	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 03 .0102	CHARGES	Eff. March 12, 1976	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 03 .0103	HEARING	Eff. March 12, 1976	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 03 .0104	RIGHTS	Eff. March 12, 1976	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 03 .0105	SCOPE	Eff. March 12, 1976	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 03 .0106	WITNESSES	Eff. March 12, 1976	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
	SECTION .0200 - PRECINCT ELECTION OFFICIALS	08 NCAC 03 .0201	FILING CHARGES: ADOPTION OF PROCEDURES	Eff. March 12, 1976	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 03 .0202	HEARING DATE AND DISPOSITION	Eff. March 12, 1976	Necessary with substantive public interest	No		Select One	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
	SECTION .0300 - INVESTIGATION AND REPORTS OF CRIMINAL VIOLATION	08 NCAC 03 .0301	SUMMARY INVESTIGATION	Eff. March 12, 1976	Necessary with substantive public interest	No		Select One	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		08 NCAC 03 .0302	REPORTS OF EVIDENCE OF CRIMINAL VIOLATION	Eff. March 12, 1976	Necessary with substantive public interest	No		Select One	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One

04,

G.S. 150B-21.3A Report for 08 NCAC 04, VOTING EQUIPMENT												
Agency - State Board of Elections												
Comment Period - 8/15/16 - 10/14/16												
Date Submitted to APO - Filled in by RRC staff												
Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
	SECTION .0300 – APPROVAL AND OPERATION OF VOTING SYSTEMS	08 NCAC 04 .0301	REQUIREMENTS OF VOTING SYSTEMS	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		08 NCAC 04 .0302	APPROVAL OF VOTING SYSTEMS	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		08 NCAC 04 .0303	OFFICIAL BALLOT(S) TO BE USED ON VOTING SYSTEM	Eff. August 1, 2004	Unnecessary	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 04 .0304	OPERATION AND MATTER OF VOTING ON VOTING SYSTEMS	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 04 .0305	INSTRUCTION OF PRECINCT OFFICIALS AND VOTERS IN THE USE OF VOTING SYSTEMS	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 04 .0306	DUTIES OF CUSTODIANS OF VOTING SYSTEMS	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		08 NCAC 04 .0307	TESTING OF VOTING SYSTEM BEFORE USE IN AN ELECTION	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One

05,

G.S. 150B-21.3A Report for 08 NCAC 05, MODIFIED FULL TIME REGISTRATION SYSTEM												
Agency - State Board of Elections												
Comment Period -8/15/16 through 10/14/16												
Date Submitted to APO - Filled in by RRC staff												
Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
		08 NCAC 05 .0101	PLANS OF REGISTRATION	Eff. March 12, 1976	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
		08 NCAC 05 .0102	DEADLINE FOR ADOPTION	Eff. March 12, 1976	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		08 NCAC 05 .0103	EXCEPTION: MODIFIED PLANS	Eff. March 12, 1976	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		08 NCAC 05 .0104	ADOPTION OF PLAN A OR PLAN B REQUIRED	Eff. March 12, 1976	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		08 NCAC 05 .0105	ADOPTION OF FULL-TIME REGISTRATION REQUIRED	Eff. March 12, 1976	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		08 NCAC 05 .0106	PLAN A	Eff. March 12, 1976	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		08 NCAC 05 .0107	PLAN B	Eff. March 12, 1976	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		08 NCAC 05 .0108	PLAN C	Eff. March 12, 1976	Unnecessary	No		Select One	Unnecessary	Select One	Select One	Select One
		08 NCAC 05 .0109	PLAN D	Eff. March 12, 1976	Unnecessary	No		Select One	Unnecessary	Select One	Select One	Select One
		08 NCAC 05 .0110	NOTIFICATION OF PLAN ADOPTION	Eff. March 12, 1976	Unnecessary	No		Select One	Unnecessary	Select One	Select One	Select One

06,

G.S. 150B-21.3A Report for 08 NCAC 06, PARTISAN ELECTIONS AND BALLOTS												
Agency - State Board of Elections												
Comment Period - 8/15/16 - 10/14/16												
Date Submitted to APO - Filled in by RRC staff												
Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
		08 NCAC 06B .0101	GENERAL BALLOT GUIDELINES	Eff. August 1, 2004	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		08 NCAC 06B .0102	USE OF PAPER BALLOTS WHERE VOTING SYSTEMS ARE USED	Eff. August 1, 2004	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		08 NCAC 06B .0103	ARRANGEMENT OF OFFICIAL BALLOTS	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 06B .0104	LATE CHANGES IN BALLOTS	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 06B .0105	COUNTING OF OFFICIAL BALLOTS	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One

07,

G.S. 150B-21.3A Report for 08 NCAC 07, FAXING AND ELECTRONIC TRANSFER OF VOTING INFORMATION												
Agency - State Board of Elections												
Comment Period - 8/15/16 through 10/14/16												
Date Submitted to APO - Filled in by RRC staff												
Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
SUBCHAPTER 07B – SUBMITTING AND ACCEPTING VOTER INFORMATION BY FAX		08 NCAC 07B .0101	SUBMITTING VOTER REGISTRATION AND CHANGES OF PARTY AFFILIATION	Eff. August 1, 2004	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
		08 NCAC 07B .0102	ACCEPTING VOTER REGISTRATION APPLICATIONS	Eff. August 1, 2004	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One

08,

G.S. 150B-21.3A Report for 08 NCAC 08, COMPLIANCE WITH FEDERAL P.L. 98-435: THE VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED ACT												
Agency - State Board of Elections												
Comment Period - 10/15/16 - 8/14/16												
Date Submitted to APO - Filled in by RRC staff												
Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
		08 NCAC 08 .0101	HANDICAPPED TRANSFER	Eff. March 24, 1986	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
		08 NCAC 08 .0102	NOTARIZATION REGARDING ABSENTEE VOTING BY HANDICAPPED	Eff. March 24, 1986	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		08 NCAC 08 .0103	CURBSIDE VOTING HOURS EXTENDED	Eff. April 9, 1986	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		08 NCAC 08 .0104	HANDICAPPED TRANSFER PRIOR TO ELECTION DAY	Eff. October 1, 1988	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One

09,

G.S. 150B-21.3A Report for 08 NCAC 09, CONDUCT OF VOTE RECOUNTS BY COUNTY BOARDS OF ELECTIONS												
Agency - State Board of Elections												
Comment Period - 8/15/16 - 10/14/16												
Date Submitted to APO - Filled in by RRC staff												
Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
		08 NCAC 09 .0106	GENERAL GUIDELINES	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		08 NCAC 09 .0107	RECOUNT OF OPITICAL SCAN/MARKSENSE/PUNCHCARD BALLOTS	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 09 .0108	DIRECT RECORD ELECTRONIC AND LEVER (DIRECT RECORD MECHANICAL) VOTING MACHINES	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 09 .0109	MANUAL HAND TO EYE RECOUNTS	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One

10,

G.S. 150B-21.3A Report for 08 NCAC 10, ELECTION DAY MATTERS												
Agency - State Board of Elections												
Comment Period - 8/15/16 - 10/14/16												
Date Submitted to APO - Filled in by RRC staff												
Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
SUBCHAPTER 10B – VOTING, VOTING PLACES AND PRECINCT OFFICIALS' DUTIES AND TASKS		08 NCAC 10B .0101	TASKS AND DUTIES OF PRECINCT OFFICALS AT VOTING PLACES	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Necessary with substantive public interest and must be readopted	Select One
		08 NCAC 10B .0102	SETTING UP POLLING PLACE PRIOR TO VOTING	Eff. August 1, 2004	Necessary without substantive public interest	No		No	Necessary without substantive public interest	Select One	Select One	Select One
		08 NCAC 10B .0103	VOTING PROCEDURES	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 10B .0104	LEAVING THE VOTING ENCLOSURE, SPOILED OR INCOMPLETE BALLOTS	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 10B .0105	PROCEDURES AT THE CLOSE OF VOTING	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 10B .0106	ELECTION SUPPLIES RETURN	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 10B .0107	ASSISTANCE TO VOTERS IN PRIMARIES AND GENERAL ELECTIONS	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One
		08 NCAC 10B .0108	CURBSIDE VOTING	Eff. August 1, 2004	Necessary with substantive public interest	No		No	Necessary with substantive public interest	Select One	Select One	Select One

G.S. 150B-21.3A Report for 08 NCAC 12, RULES FOR MILITARY AND OVERSEAS CITIZENS ABSENTEE VOTING PROCEDURES												
Agency - State Board of Elections												
Comment Period - 8/15/16 - 10/14/16												
Date Submitted to APO - Filled in by RRC staff												
Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
		08 NCAC 12 .0101	DEFINITIONS	Eff. August 1, 2004	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		08 ncac 12 .0102	ELECTRONIC MAIL (E-MAIL)	Eff. August 1, 2004	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		08 NCAC 12 .0103	APPLICATIONS/REQUESTS	Eff. August 1, 2004	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		08 NCAC 12 .0104	INSTRUCTIONS AND NOTICE; DELIVERY	Eff. August 1, 2004	Unnecessary	No		No	Unnecessary	Select One	Select One	Select One
		08 NCAC 12 .0105	GENERAL GUIDELINES	Eff. August 1, 2004	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
		08 NCAC 12 .0106	PROCESSES BY MAIL	Eff. August 1, 2004	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
		08 NCAC 12 .0107	PROCESSES BY FAX	Eff. August 1, 2004	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
		08 NCAC 12 .0108	ABSENTEE VOTING BY FACSIMILE (FAX) TRANSMISSION	Eff. August 1, 2004	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
		08 NCAC 12 .0109	RECEIVING FACSIMILE (FAX) TRANSMISSIONS	Eff. August 1, 2004	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
		08 NCAC 12 .0110	BALLOT VERIFICATION AND SECURITY	Eff. August 1, 2004	Unnecessary	No		Select One	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One
		08 NCAC 12 .0111	OTHER PROVISIONS	Eff. August 1, 2004	Unnecessary	No		No	Unnecessary	Select One	Unnecessary and should expire on the first day of the month following the consultation	Select One

September 19,

**Official Meeting Minutes
State Board of Elections
Monday, September 19, 2016**

Members in attendance via telephonic conference

- Mr. Grant Whitney, Chair
- Ms. Rhonda K. Amoroso, Secretary
- Mr. Joshua Malcolm
- Dr. Maja Kricker
- Mr. Jim Baker

Staff in attendance:

- Ms. Kim Strach, Executive Director
- Mr. Josh Lawson, General Counsel
- Ms. Katelyn Love, Special Counsel
- Mr. James Bernier, Assistant Attorney General (via telephone conference)
- Ms. Joan Troy, Legal Analyst

Other persons in attendance via teleconference

- Mr. Dwight Collins, Chair, Rowan County Board of Elections
- Ms. Nancy Evans, Director, Rowan County Board of Elections
- Mr. Jerry Spruell, Director, Edgecombe County Board of Elections
- Mr. James Proctor, Chair, Edgecombe County Board of Elections
- Mr. Allen Dial
- Mr. Grady Hunt, attorney at law
- Mr. Steve Stone, Chair, Robeson County Board of Elections

Call to order

Chairman Whitney called the meeting to order at 4:05 p.m. and confirmed that he and all other State Board members were present via telephone. Chairman Whitney also acknowledged the attendance (by telephone) of James Bernier of the Attorney General's office.

Ethical obligations

Chairman Whitney, citing the State Government Ethics Act, North Carolina General Statute 138A-15, stated that it is the duty of every State Board member to avoid conflicts of interest as much as possible, and to avoid the appearance of a conflict. He inquired whether any board member has any known conflict of interest or appearance of conflict with respect to any matters coming before the board. No members reported conflicts.

Vacancy appointment to Mitchell County Board of Elections

Chairman Whitney stated that he would accept a motion to appoint one of two recommendations submitted by the Republican Party to fill a board vacancy in Mitchell County.

Secretary Amoroso moved to appoint Salve Dallas McKinney to fill the vacant seat in Mitchell County.

Motion: Secretary Amoroso

Second: Mr. Baker

Vote: Unanimous

Rehearing upon unanimous request of Rowan County Board of Elections to correct clerical error affecting Rowan County's one-stop early voting plan

At Chairman Whitney's request, General Counsel Joshua Lawson explained that the Rowan County Board of Elections had inadvertently submitted incorrect scheduling information through the online portal that all counties had been requested to use for submission of early voting plans. During the previous meeting of the State Board of Elections, efforts to alert the State Board by Rowan County Board of elections staff and members (who were monitoring the meeting via telephonic conference were not successful.

Rowan Board of Elections Chairman Collins confirmed that during the State Board meeting, he had attempted to reach State Board staff by email and that director for the county board, Nancy Evans, had attempted to reach State Board staff by phone, but were unable to do so in time to correct the record.

Secretary Amoroso moved that, having weighed a full range of factors relevant to early voting including but not limited to geographic, demographic, and partisan interests of Rowan County, and that based on the record as a whole, including the information supplied by the county and records and maps received earlier, and that in order to correct an administrative error, the plan for Rowan County be amended such that the Rockwell American Legion building site shall be closed on Sunday, October 30, 2016, and that the one stop plan for Rowan County shall otherwise remain unchanged.

During discussion, Mr. Malcolm requested and received confirmation from Mr. Lawson that Rowan County had not had Sunday voting in the election of 2012.

Motion: Secretary Amoroso

Second: Mr. Baker

Vote: Unanimous

Rehearing upon unanimous request of Edgecombe County Board of Elections to correct clerical error affecting Edgecombe County's one-stop early voting plan

At Chairman Whitney's request, General Counsel Joshua Lawson explained that the Edgecombe County Board of Elections had submitted incorrect scheduling because of a typographical error.

Edgecombe Board of Elections Chairman Proctor confirmed that the intended plan would have had all sites closing at 1:00 on all of the Saturdays, and that the Pinetops site's later closing time was submitted in error.

Secretary Amoroso moved that, having weighed a full range of factors relevant to early voting including but not limited to geographic, demographic, and partisan interests of Edgecombe County, and that based on the record as a whole, including the information supplied by the county and records and maps received earlier, and that in order to correct an administrative error, the plan for Edgecombe County be amended such that the Edgecombe County Memorial Library site in Pinetops shall be open from 9:00 a.m. to 1:00 p.m. on the October 29th Saturday that had been in issue; the plan shall otherwise remain unchanged.

Motion: Secretary Amoroso

Second: Mr. Baker and Dr. Kricker

Vote: Unanimous

Chairman Whitney directed State Board staff to provide a memorandum to county boards suggesting that for future submissions of one-stop early voting plans, the director's review of the plan contents should be reviewed again by a second county board staffer to safeguard against the technical errors that necessitated the Rowan and Edgecombe agenda items.

Staff briefing of jurisdiction for voter complaint against the Haywood Board of Elections director.

Chairman Whitney invited General Counsel Joshua Lawson to provide a review of the State Board's options in response to a voter complaint filed under Chapter 3 of Title 8 of the North Carolina Administrative Code.

Mr. Lawson noted that the voter's complaint was submitted under a regulation that provided a process by which the State Board could hear a complaint against a county board of elections member or an elections precinct official, but that did not provide a process under which the State Board could hear a voter's complaint against a county board of elections director. Mr. Lawson also explained that the only rule or law that conferred jurisdiction to the State Board to take action against a county board of elections director was a statute providing for the director's removal. Mr. Lawson noted that either the State Board's Executive Director or the State Board had the discretionary authority to take up the matter under the statutory process.

Secretary Amoroso moved that the State Board decline to take the matter under substantive consideration for lack of jurisdiction, that General Counsel Lawson send the voter's complaint to the Haywood County Board of Elections requesting their review, and that the complainant be provided a letter explaining the jurisdictional issue.

Motion: Secretary Amoroso

Second: Dr. Kricker

Vote: Unanimous

Hearing for appeal of Robeson County Board of Elections resolution of Allen Dial election protest.

At Chairman Whitney's request, General Counsel Joshua Lawson gave a brief review of events leading to the current appeal by Allen Dial of an order from the Robeson County Board of Elections that the new election Mr. Dial sought for the mayoral contest for the town of Pembroke was not warranted and would not be scheduled.

Mr. Dial, who lost the mayoral election, Mr. Hunt, attorney for mayor-elect Gregory Cummings, and Chairman Stone, who presided over the Robeson County Board of Election hearings on this matter, participated in discussion of Mr. Dial's claim that administrative errors by Robeson County staff and errors by the Robeson County Board of Elections both in counting eligible ballots and discounting new evidence regarding voter eligibility gave rise to the need for a new election.

Mr. Malcolm moved that the State Board find that the record under review does not contain substantial evidence that a violation of the law, an irregularity, or misconduct occurred significant enough to alter the outcome of the Pembroke mayoral contest, and that the county board be directed to certify the contest results as they appear in the record and that the Chair of the Robeson County Board of Elections issue a written order reflecting that directive.

Motion: Mr. Malcolm
Second: Secretary Amoroso
Vote: Unanimous

Chairman Whitney thanked Mr. Dial and Mr. Cummings for their interest in public service and directed Mr. Lawson to prepare an order confirming the State Board's decision.

Secretary Amoroso moved for adjournment at 5:04 p.m.

Motion: Secretary Amoroso
Second: Mr. Malcolm
Vote: Unanimous

October 13,

**Official Meeting Minutes
State Board of Elections
Thursday, October 13, 2016**

Members in attendance via telephonic conference

- Mr. Grant Whitney, Chair
- Ms. Rhonda K. Amoroso, Secretary
- Mr. Joshua Malcolm
- Dr. Maja Kricker
- Mr. Jim Baker

Staff in attendance:

- Ms. Kim Strach, Executive Director
- Mr. Josh Lawson, General Counsel
- Ms. Katelyn Love, Special Counsel
- Mr. Brian Neesby, Data Analyst
- Mr. Pat Gannon, Public Information Officer
- Ms. Joan Troy, Legal Analyst

Call to order

Chair Whitney called the meeting to order at 3:32 p.m. and confirmed that he and all other State Board members were present via telephone.

Statement regarding ethics and conflicts of interest

Chair Whitney, citing the State Government Ethics Act, North Carolina General Statute 138A-15€, stated that it is the duty of every State Board member to avoid conflicts of interest as much as possible, and to avoid the appearance of a conflict. He inquired whether any board member has any known conflict of interest or appearance of conflict with respect to any matters coming before the board. No members reported conflicts.

Vacancy appointment to Onslow County Board of Elections

Secretary Rhonda Amoroso moved that Mr. William Shanahan be nominated to fill the vacancy on the Onslow County Board of Elections.

Motion: Secretary Amoroso

Second: Dr. Kricker

Vote: Unanimous

Vacancy appointment to Lee County Board of Elections

Secretary Amoroso made a motion to appoint Mr. Stryffeler to fill the vacancy on the Lee County Board of Elections, with the appointment contingent upon staff's determination that no conflict was presented by the fact of Mr. Stryffeler's being a magistrate, and provided that if such a conflict were discovered, Mr. Dylan Light would be appointed instead.*

Motion: Secretary Amoroso

Second: Dr. Kricker

Vote: Unanimous

Preliminary consideration of voter complaint filed by Paul Beaumont against Currituck County Board of Elections Chair Karen Ish.

Chair Whitney's reviewed the nature of the agenda item which was that Currituck County Commissioner Paul Beaumont inquired whether an email critical of Currituck County candidates written by Karen Ish, the Currituck County Board of Elections Chair, constituted misconduct.

General Counsel Joshua Lawson noted that NCGS §163-39 restricts persons serving on boards of election from disseminating for public consumption any comments for or against candidates on the ballot.

Lawson also provided an overview of the procedural issue, which was that the Board must determine whether, if the particulars of the complaint were assumed to be true, a prima facie case of misconduct existed; and that if the Board so found, it could direct that a fact-finding hearing on the merits of the complaint be held.

Secretary Amoroso, Mr. Baker and Chair Whitney agreed that Ms. Ish did not lose all of her First Amendment freedoms upon becoming a public official; that she did not use her title as Chair of the Currituck County Board of Elections in the email in question; that the matter did not rise to a level of concern that would justify displacement of more pressing issues for the State Board; and that the public cost of hearing on the merits, which would require subpoenas and travel, did not justify the scheduling of a hearing.

Dr. Kricker and Mr. Malcolm were of the opinion that without further inquiry, the question whether Ms. Ish intended to publicly disseminate her criticisms could not be determined, and that a full hearing on the merits of the case should be therefore be scheduled.

Mr. Malcolm moved that a prima facie case having been established, the State Board should order a full hearing on the matter to make further findings of facts necessary to determine whether Ms. Ish should be removed.

Motion: Mr. Malcolm

Second: Dr. Kricker

* After consultation with the executive director of the Judicial Standards Commission and general counsel for the Office of Administrative Courts, staff determined that no such conflict prevents Mr. Stryffeler's appointment.

Vote: Yes – Mr. Malcolm
Yes – Dr. Kricker
No – Secretary Amoroso
No – Mr. Baker
No – Chair Whitney

Report from Executive Director Kim Strach

Part 1. Damage sustained by counties as a result of Hurricane Matthew.

Director Strach reported that multiple counties had sustained damage and were still subject to flooding as a result of Hurricane Matthew, and that every county board of elections in the state was still open and operating, but that because floodwaters were still rising, complete damage assessment was not yet possible. Strach noted that guidance has been provided to the counties to accept as timely ballots received by October 19 provided they were signed by the voter registration deadline.

Board members discussed that in circumstances of natural disaster or extremely inclement weather or armed conflict, the executive director was vested with emergency powers under which she could adjust the normal schedule for elections. Director Strach assured board members that she would monitor and be responsive to circumstances that required her to invoke emergency powers, and encouraged board members to contact her with information or observations that might be pertinent to such a decision.

Part 2. Investigation and remedial action regarding employee misconduct

Director Strach reported that as a consequence of information provided by a conservative research organization, the State Board recently became aware that an agency employee was using her position and agency tools to disseminate grossly inaccurate information about voting. Strach further reported that in addition to making presentations that conveyed false information about voting, the employee had emailed copies of that erroneous presentation to a substantial number of email contacts that she had gathered in the course of making presentations throughout the state, and that in many of these instances her email had included a roster of candidates representing only one party. Of particular concern was that the misinformation, if trusted by its recipients, could result in persons committing fraud by voting on behalf of others via absentee ballot. Director Strach reported that the agency's investigation determined that no other agencies employees were involved; the employee had been terminated; and the agency had taken remedial action by contacting affected audiences to correct the false information and to make clear that the State Board of Elections does not endorse any candidates for any election.

Chair Whitney requested that Director Strach and staff provide a written plan for how to prevent recurrence of an employee "going rogue."

Part 3. Ensuring voter awareness of voting options

Director Strach reported that the State Board of Elections received letters from the North Carolina Democratic Party and from the NAACP requesting that the voter registration deadline be extended through Saturday. Board members discussed that Director Strach would monitor events to evaluate whether emergency powers are required to extend the voting registration deadline. Board members further discussed the use of social media to ensure that voters affected by flooding were aware of all available options for voting under the current deadline.

Adjournment: Secretary Amoroso moved that the board adjourn.

Motion: Secretary Amoroso

Second: Mr. Baker

Vote: Unanimous

Chair Whitney adjourned the meeting at approximately 4:10 p.m.

November 27

**Official Meeting Minutes
State Board of Elections
Sunday, November 27, 2016**

Members in attendance via telephonic conference

- Mr. Grant Whitney, Chair
- Ms. Rhonda K. Amoroso, Secretary
- Mr. Joshua Malcolm
- Dr. Maja Kricker
- Mr. Jim Baker

Staff in attendance:

- Ms. Kim Strach, Executive Director
- Mr. Josh Lawson, General Counsel
- Ms. Katelyn Love, Special Counsel
- Mr. Brian Neesby, Data Analyst

Call to order

Chair Whitney called the meeting to order at 7:00 p.m. and confirmed that he and all other State Board members were present via telephone.

Statement regarding ethics and conflicts of interest

Chair Whitney, citing the State Government Ethics Act, North Carolina General Statute 138A-15(e), stated that it is the duty of every State Board member to avoid conflicts of interest as much as possible, and to avoid the appearance of a conflict. He inquired whether any board member has any known conflict of interest or appearance of conflict with respect to any matters coming before the board. No members reported conflicts.

Consideration of request regarding certain protests of election appealed from Durham County

At the Chair's request, General Counsel Josh Lawson reported that Tom Stark, counsel for the North Carolina Republican party has filed a request to appeal the Durham County Board's rejection of the election protest filed by Mr. Posthill (regarding card read errors). Lawson also reported that Mr. Stark included a motion for expedited consideration of all appeals coming to the board from Durham, and that Stark informed Mr. Lawson that further filings would be forthcoming. Mr. Lawson reported that counsel for the North Carolina Democratic Party had also communicated its position that an expedited consideration was unwarranted and that adequate means for hearing the appeal are currently provided in statute.

Board members expressed concern about delay in receiving documents from the Durham County Board of Elections that the State Board required for review of the action under appeal. Board members

agreed that at a minimum the State Board must receive the Durham County Board of Elections written order, the record and evidentiary documents.

Chairman Whitney determined that the Board would schedule a meeting for hearing the appeal of Durham's dismissal of the protest regarding the faulty card and tabulation, with the convening of that meeting being contingent upon the receipt of necessary documents from the Durham County Board of Elections.

Board members discussed that notwithstanding media reports that the McCrory Committee might be willing to withdraw its request for a statewide recount if certain conditions were met by the Durham County Board of Elections, no one at the State Board had been contacted by any person acting on behalf of the McCrory campaign with such a message; the board members concluded that in the absence of a formal request, there was no action to be taken with respect to that matter.

Secretary Amoroso made a motion at approximately [REDACTED] pm for the Board to go into closed session to receive a briefing from General Counsel regarding the need to retain counsel for litigation in the matter of *DeLuca v. Strach, et al.*

Motion: Secretary Amoroso

Second: Dr. Kricker

Vote: Unanimous

Session is to receive briefing from counsel regarding the handling of *DeLuca v. Strach et al.* and representation therein.

At approximately [REDACTED] pm, Secretary Amoroso moved to resume open session.

Motion: Secretary Amoroso

Second: Dr. Kricker

Vote: Unanimous

The State Board resumed its open meeting at approximately [REDACTED] pm

Action to approve the hiring of litigation counsel.

Board member Joshua Malcolm made a motion to direct Joshua Lawson and Kim Strach to seek approval from the Attorney General's office and the Governor's office to retain Charles F. Marshall, Craig Schauer, Jessica Thaller-Moran and Thomas Ziko from Brooks Pierce law firm

Motion: Mr. Joshua Malcolm

Second: Mr. Jim Baker

Vote: Unanimous

Board member Joshua Malcom made a motion at approximately [REDACTED] pm to adjourn.

Motion: Mr. Joshua Malcolm

Second: Secretary Amoroso

Vote: Unanimous

DRAFT