Dear Members of the North Carolina State Board of Elections:

The National Election Defense Coalition (NEDC) is a national, non-partisan, not-for-profit organization committed to promoting secure, accessible, auditable, and trustworthy election systems. Yesterday, with Citizens for Better Elections, and over a dozen petitioners, represented by Free Speech for People and Baker Hostetler LLP, we sued the Secretary of the Commonwealth of Pennsylvania, claiming the Pennsylvania Department of State disregarded principle requirements in state law and improperly certified voting machines for use in the Commonwealth. We write to you to express grave concerns that the North Carolina State Board of Elections may similarly be disregarding principle requirements in North Carolina law and may improperly certify voting machines for use in North Carolina. We write to the Board to urge it postpone a vote on certifying EVS 5.2.4.0, to seek expert opinions on the certification and to reschedule it to permit public attendance and participation.

The State Board staff has recommended that the Board vote to certify Election System & Software’s (ES&S) EVS 5.2.4.0 without any testing or review, asserting that the this system is not substantially different from EVS 5.2.2.0, a system that received certification in August. This claim is false on its face. EVS 5.2.4.0 introduces a new voting device and several new operational features making it ineligible to bypass a certification evaluation according to North Carolina’s testing and certification requirements.

The State Board staff’s push to certify EVS 5.2.4.0 without the necessary review appears to be motivated by ES&S’s eleventh hour disclosure that it does not have enough certified systems to satisfy proposals it has offered to North Carolina counties.
In the last three years reports of unprecedented cyber threats against election infrastructure in the United States have blanketed the news and rattled the public. Former Department of Homeland Security Nielsen has said, “[t]here is little doubt that adversaries and non-state actors continue to view elections as a target for cyber and influence operations,” warning “[o]ur democracy itself is in the crosshairs.” The stark truth is that the foreign nation states and other bad actors targeting our elections are highly motivated and possess significant financial and technical resources able to disrupt or manipulate our election infrastructure. We cannot ignore or minimize the magnitude of this threat.

Our election infrastructure must be strong, secure, transparent and trustworthy. Our election administrators must be determined to protect our elections and prioritize security, transparency, auditability and trustworthiness in our election systems. In order to rightly earn public trust, election administrators must vigorously review new voting systems and strictly enforce testing and certification requirements. Even the appearance of improper certification must be avoided at all costs.

We strongly urge the Board to postpone a vote on certification of EVS 5.4.2.0 so that it can be properly and thoroughly vetted and so that the public can participate in the Board’s meeting. Elections belong to the people. It’s essential that the State Board conduct all election certification procedures in the sunlight, according to State Code, with input from experts and public participation.

Thank you very much for your consideration. We stand ready to answer any questions or assist the Board in anyway we may be helpful.

Sincerely,

Susan Greenhalgh
Vice-President of Policy and Programs
National Election Defense Coalition
susan@electiondefense.org