

ES&S Task Force Meeting  
June 16, 2023

1        MR. WLASCHIN: Everybody, welcome, and thank you for being  
2 flexible with us. My name's Chris Wlaschin. I'm the Senior  
3 Vice President of Security here at ES&S. I've been with the  
4 company about five years. I apologize for my casual attire.  
5 I've been up for most of the night monitoring the aftermath of a  
6 fire and the smoke--desmoking effort over there. A small  
7 Spanish language radio station has offices in the basement of  
8 that building. As you know, it's a multi-tenant building, and  
9 apparently a computer, maybe a battery sitting on a desk in an  
10 office caught fire and engulfed in a small space. No damage to  
11 ES&S spaces. We are able to continue our mission. Our folks  
12 are trained to work from home if the offices are not available.  
13 The building is being de-smoked right now. We will probably  
14 reoccupy it later today or tomorrow. But thank you for being  
15 flexible and allowing us to meet with you, answer your questions  
16 at this venue. I'd like us to do introductions starting with  
17 Tim to my right.

18        MR. HALLETT: Hi. Good morning, everyone. My name's Tim  
19 Hallett. I'm the Vice President of Certification at ES&S, so  
20 I'm in charge of ensuring that our systems get certified both at  
21 EAC federal level and then at the state

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1 level, as well. In addition to that, I also have responsibility  
2 for our technical services team. Those are the folks that go  
3 out once we make a sale and we install, they do the actual  
4 network install of your laptops and PCs.

5 MS. BENNETT: Hi. My name is Linda Bennett. I'm Senior  
6 Vice President of Customer Operations, and I manage the account  
7 managers, so Nate and Jared, and the training team and the  
8 technical support teams you may call in for hardware or software  
9 issues ???, as well.

10 MR. OMEL: Hi, everybody. My name is Tucker Omel. I'm the  
11 Senior Sales Engineer with ES&S. I've been with the company for  
12 eighteen years. My job-- I do a lot of different things for  
13 the company. My job today is to help explain any technical  
14 questions you might have.

15 MR. CLARK: My name is Nate Clark. I've been with the  
16 company for seven years. Each of those years has been in South  
17 Dakota. I worked with Rachel for many years.

18 MS. SOULEK: We go way back.

19 MR. CLARK: We go way back. So I look forward to working  
20 with Monae Johnson and everyone else.

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1       MS. GRANGER: I guess me next. Hi. I'm Katina Granger.  
2 I'm the Senior Manager of Public Relations at ES&S. I work  
3 under our Government Relations Team, so Pat Rogers, and I also  
4 work with our marketing team to help make sure that we have the  
5 materials and the information that you need to help communicate  
6 about your systems to your jurisdiction voters, and I work with  
7 the media every single day. So I get a lot of questions all the  
8 time, and I'm lucky to have a great number of experts at our  
9 disposal. Chris, Tucker. And happy to work with our account  
10 managers and our sales teams to make sure that y'all have that  
11 in your hands.

12       MR. SCHWAB: Thanks. And I'm Jared Schwab. I'm the  
13 account manager for South Dakota, so my role--I'm kind of the  
14 main point of contact for the auditors across the state if  
15 they've got any questions, issues, anything like that. They can  
16 come to me and generally ask--ask someone else to answer their  
17 questions.

18       MS. RICE: Hi. I'm Trish Rice. I'm the Regional Sales  
19 Manager, so I have South Dakota, North Dakota and Minnesota. We  
20 do have booklets for you guys. They just happened to be over at  
21 the five story which we can't get into because our badges are

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1 disabled because of the fire. So we will mail them to you, or  
2 we'll bring them to you personally so you guys all have them.  
3 So, yes, thank you so much for helping us get through this  
4 craziness and meeting us in here. So I will leave that to  
5 (inaudible)

6 MR. WLASCHIN: Madame Secretary

7 MS. JOHNSON: Yes?

8 MR. WLASCHIN: Would you introduce yourself and your team,  
9 please?

10 MS. JOHNSON: Yes. Monae Johnson, Secretary of State,  
11 and thank you for allowing us to come and visit you here. Sorry  
12 about the fire. We appreciate working with you.

13 MS. REIMER: Representative Rebecca Reimer. Central part  
14 of the state. (inaudible) Happy to be here. Looking forward to  
15 (inaudible)

16 MS. MULALLY: Representative Tina Mulally from District 35  
17 which encompasses the eastern side of the second largest city.

18 MR. DIEDRICK: Tom Diedrick, Deputy Secretary of State.  
19 Thank you for allowing us to continue to have this meeting ???

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1 and we know that, but we thank you for taking time out of your  
2 schedule. Probably should be (inaudible)

3 MS. PETERSON: Hi. I'm Representative Sue Peterson.  
4 (inaudible) here in the house, and I represent the south-central  
5 part of Sioux Falls.

6 MS. ANDERSON: Leah Anderson, Minnehaha County Auditor. I  
7 am three months into office, and I represent the largest county  
8 in our state.

9 MS. SOULEK: Rachel Soulek, Director of Elections for South  
10 Dakota. I'm happy to be here, happy to work with Nate again,  
11 and always appreciate how responsive ES&S has been for our  
12 office. I know I email Nate at 5:00 on Fridays quite often, and  
13 I get a response. And I always appreciate it. I don't expect  
14 it, but I appreciate it. Again, thank you for having us here,  
15 too.

16 MR. CLARK: That response is "Out of office."

17 MS. SOULEK: No. It's usually, "I'll have to ask someone  
18 else."

19 MR. WLASCHIN: Well thank you, again. Just a couple of  
20 admin notes. There's coffee on the table over there. We have

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1 some water--bottles of water being brought in. The restrooms  
2 are out the door here and to the right down the hallway. We'll  
3 take a break probably in an hour or so in so that you can get up  
4 and walk around and see, at least, this facility. This is our  
5 engineering facility. The offices over there are software  
6 development, our help desk, finance, marketing and public  
7 affairs, and our IT department down in the basement. But  
8 engineering is over here. (inaudible) level repairs and  
9 manufacturing and equipment engineering (inaudible) question and  
10 answer sessions if that sounds (inaudible) pictures of anything  
11 that you see. We are-- We staunchly protect our privacy and  
12 (inaudible) protection and our equipment. Feel free to ask  
13 questions about anything you see or hear. We just ask that you  
14 don't take pictures of it. We are open (inaudible) to you  
15 today. We will answer any question that you have about anything  
16 that's on your mind. That's why we're here, and what we did  
17 when we invited the Secretary of State, her staff and  
18 representatives in. We want to be clear and transparent about  
19 that. We have an abbreviated agenda for you today. We plan on  
20 spending about four hours together. Due to that building and  
21 the facilities over there have been taken out of the equation,

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1 it's probably going to only be about two hours, maybe a little  
2 bit more here. We'll go as long as you have questions. So for  
3 my part what I wanted to briefly talk about just to kick us off  
4 is that South Dakota's been a great customer of ours for many  
5 years. ES&S's role in South Dakota is to support elections by  
6 providing safe, secure and auditable equipment, to support that  
7 equipment through maintenance and repairs and program upgrades,  
8 and then to support you on election day or the days leading up  
9 to election day by providing people on the ground to help make  
10 sure the machines are operating properly. That's really our  
11 goal is to make sure that South Dakota has successful,  
12 auditable, secure elections. Everybody that works for us feels  
13 that way. We're about four hundred and fifty employees at ES&S.  
14 We've been in business for forty years, a little bit more than  
15 forty years. About half the employees work here in these two  
16 buildings. The other half are spread out across the states and  
17 counties where we do business. We feel like having people on  
18 the ground in your state and the places where our customers are  
19 allow us to respond more quickly and better with more quality  
20 than if we're all remote or all here in Omaha. You'll hear me  
21 talk and try to inject a lot about security today. Security is

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1 our number one priority, whether it's our people. Normally you  
2 would all have visitor badges. They're going to be brought over  
3 here in a minute because we keep track of everybody that comes  
4 in and out of the--out of the building. Our products work very,  
5 very hard to make sure their products are the most secure as  
6 they can be. Our processes about how we transfer files to and  
7 from customers, support you with services that come from the  
8 Omaha offices all have security as a number one focus that under  
9 rides everything that we do. I'm sorry you won't be able to see  
10 our software development area today, but the VP that oversees  
11 that may stick her head in and say--and say hi to you. All the  
12 software on your equipment is developed right here in our office  
13 in Omaha. We don't use offshore or overseas anything like that.  
14 It's all developed here. We have a printing service here in the  
15 building where we print ballots for customers on occasion. We  
16 could show you that. We don't use offshore printers. We don't  
17 use non-U.S. paper sources, anything like that. So for my part,  
18 security is number one. I love to talk about it and help you  
19 answer any questions that you might have about that. I'm going  
20 to ask the other VP's here to talk a little bit about their  
21 areas and how they specifically support South Dakota, and then



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1 we'll get into the first round of questions and answers because  
2 the reason we're here, Secretary, is to answer every question  
3 you and the legislatures have so that when we leave here you can  
4 say that you looked the ES&S leadership and authorities in eye  
5 and came away with assurance that we're doing everything we can  
6 to help you securely and transparently. So with that, Tim, if  
7 you wouldn't mind just taking a few minutes to talk about  
8 certification--

9 MR. HALLETT: Yeah. Absolutely. It's too bad you can't  
10 see our office. We have a dedicated certification lab within  
11 our office. So I'm responsible for, obviously as I said,  
12 federal and state certification. So I have three federal  
13 certification dedicated employees that strictly do federal  
14 certification, so that's EAC certifications. And then I have  
15 six state certification managers that have assigned territories  
16 throughout the United States. Mark Manganaro is assigned to  
17 South Dakota. He's been with us probably about eighteen years.  
18 He's probably had South Dakota almost his entire career. So  
19 once, kind of, the process at a high level is once software  
20 development is done developing a release for us, once it's been  
21 made, then it's handed off to my team. And my team does what we

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1 call pre-certification. So we take the VVSG, whatever standard  
2 one point oh (1.0), you know, is currently (inaudible) two point  
3 oh (2.0). So we internally test all our system, all firmware,  
4 all our products to ensure that we meet the one point oh (1.0)  
5 standards prior to when we even submit our application to the  
6 EAC. Once we're comfortable that we meet all the requirements,  
7 then that's when we submit our application with the EAC. And as  
8 you guys may or may not know, the Election Assistance  
9 Commission, they have what's called Voting System Test Labs. So  
10 they accreditate-- Voting System Test Labs actually tests the  
11 product. So the EAC doesn't test it themselves. They hand it  
12 off to the VSTLs, and they do the bulk of the testing, and the  
13 EAC oversees that testing. So there's two labs. There's Pro  
14 V&V out of Huntsville, Alabama, and there's SLI Compliance  
15 located in Denver, Colorado. We use both. Some states engage  
16 certain labs directly. I would say the bulk of our stuff is  
17 done through Pro V&V. So once that's handed off, we work with  
18 Pro V&V. We send our equipment down to Huntsville. We send our  
19 code and all our firmware and they test it. They test it from  
20 VVSG standards. Once that gets done-- And that usually takes,  
21 for the least, probably five to six months to get through the

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1 entire process. So once that process is completed, we get the  
2 EAC certification which is listed on the website. You can see  
3 everybody's certifications. Then we get it here. We're good to  
4 go state-wise, so then we submit our applications throughout the  
5 country to get each individual state for approval at the state  
6 level. Some states just take the EAC. We just have to submit a  
7 letter saying, "Hey, EAC certified." And they'll just approve  
8 without any testing. The bulk of the states actually want you  
9 to come onsite and do a certification to ensure that your system  
10 not only meets the federal standard, but your individual state  
11 requirements, as well, so that's kind of what we do. Once we  
12 get approval from the state, then that's when we hand it off to  
13 our implementation team and Linda's team for implementation and  
14 get all the new releases out to the counties and the states that  
15 approved our release. So that's kind of a nutshell on the  
16 certification side. Then my technical services team, they will  
17 help with the install. So they are very knowledgeable on  
18 hardening all our network equipment, our stand-alone equipment.  
19 That's the stuff that's going to run your EMS, your reporting  
20 software, your Election Management System. So that will be in a  
21 hardened environment, no ability to get in from the inside, not

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1 connected to internet. It's a hardened, stand-alone system  
2 that's fully dedicated to that just election process. I'll turn  
3 it over to Linda, and she can kind of take it from there.

4 MS. Bennett: Yeah. So that kind of worked out well.  
5 Moving around the table. So yeah. Once our certification team  
6 certifies our system in a particular state, then it gets handed  
7 off to operations, like Tim said, to implement. So my team of  
8 account managers is comprised of about forty people total. So  
9 (inaudible) team, and we've got about twelve people at the help  
10 desk, and then a few trainers, as well, and a resource team. So  
11 my team developed all the training materials for (inaudible), so  
12 that's happening. Before certification, usually we are  
13 submitting those part of the certification packages (inaudible).  
14 And we work, you know, directly with you, the customers, on  
15 timing, on implementation. We coordinate with our field service  
16 technicians to operate the hardware, with the technical services  
17 team to upgrade your EMS, get you training materials. And, you  
18 know, really my team's job is, you know, it's customer  
19 operations. So it's to get our customers operationally ready to  
20 use our equipment, that you understand the version, the latest  
21 enhancements that, you know, an upgrade brings to you, that, you

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1 know, if you're programming that you understand how to program,  
2 how to run reports, you know, how to train your co-workers.  
3 And, you know, we arm you with a lot of templates of  
4 documentation so that you can make custom documents for your  
5 particular jurisdiction. So and I'll give you a little  
6 background on me, too. I actually in a couple of days will be  
7 thirty-two years at ES&S. I started right out of college and  
8 never thought I'd be here this long. I am super happy I am.  
9 It's been a wonderful place to work, and it's definitely changed  
10 a lot over the thirty years. Like, nobody really thought about  
11 elections. They just showed up for election day and just, you  
12 know, didn't think about everything that went into it. And now  
13 it's kind of front and center, which I think is a great thing.  
14 You know, we're not hiding anything. There's a lot of dedicated  
15 people in addition to the people you see here that, you know,  
16 their life's work is making sure that our country can run great  
17 elections. And it gives me a great deal of pride to manage the  
18 customer operations team and proud of all the work that they do,  
19 and I'm proud of election officials, too. That's not an easy  
20 job at all. So we try to do everything we can to help you to  
21 make your job as easy as possible.

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1        MR. WLASCHIN: So, Madame Secretary, before we get to your  
2 first round and your team's first round of questions, one more  
3 speaker. Election-- Post-election audits are a hot button  
4 issue these days, not just in the state of South Dakota, but  
5 across the country. There's one of many several--several ways  
6 to validate, to verify that the vote count is accurate, that the  
7 election technology is working properly, and there are a variety  
8 of audits that our customers-- We have about fifteen hundred  
9 customers across forty states. And every one of them has a  
10 little bit differently how they manage how they run elections  
11 and how they do audits. I know that's an important topic for  
12 you. Tucker Omel, our senior sales engineer, knows audits  
13 inside and out. If you wouldn't mind, Tucker, just give them a  
14 brief overview of some of the audit types that we support. That  
15 may stimulate questions later.

16        MR. OMEL: Sure. So one thing I've been talking with folks  
17 around the country is that, you know, we believe here at ES&S  
18 we're very--we're going to awkwardly squeeze in here. It's like  
19 the equivalent of you're playing with (inaudible). Instead of  
20 having a nice meal, you're standing at a vending machine. You  
21 know (inaudible). It would be the equivalent of that. We very

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1 much here at ES&S believe in paper ballots. We love the paper  
2 ballot. We love that every voter leaves behind a record of  
3 their true wishes, their wishes for our country and for your  
4 state. And those paper ballots are your election. Right? And  
5 the tabulation products we provide, they are just a tool to help  
6 you interpret those peoples' wishes. Your job as election  
7 administrators is before the election is to make sure the  
8 equipment is set up and is functioning properly with (inaudible)  
9 testing, and that on election day those tools--that tool, our  
10 machines, help you understand, you know, the unofficial results  
11 on election day. But then after the election, you still need to  
12 make sure those machines were operating properly by auditing how  
13 they performed on election day. Right? How it interpreted that  
14 sacred paper. So audits are important in any form they take.  
15 We absolutely love audits, and we are here to support you in any  
16 way. There are several different varieties. The simplest and  
17 most traditional for the longest time has been I'm going to  
18 randomly pick a couple of precincts. I'm going to grab those  
19 printable paper ballots, and I'm going to hand count them and  
20 compare them against our machine count. And if the totals match  
21 up, you have a good idea that the rest of your election was

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1 probably run with integrity. There's another kind of audit  
2 that's sweeping the nations called a risk-limiting audit. I  
3 have actually spoken with, I recognize a few faces in this room,  
4 where we've had some previous discussions on running a risk-  
5 limiting audit in South Dakota, and the difference there is that  
6 instead of grabbing every, you know, every ballot from two out  
7 of a hundred precincts, your population for the election is  
8 actually random ballots from all one hundred precincts. That  
9 will get the idea. So you've got a stack of a hundred here  
10 instead of grabbing just two, you're grabbing and pulling from  
11 the whole entire stack and auditing that way. That takes a  
12 little more setup beforehand, but on the back end when you  
13 actually run that audit, even though it may sound more complex,  
14 I actually get fewer pieces of paper, and you're having a more  
15 statistical--a stronger statistical (inaudible) that, you know,  
16 you would have caught something with ninety-five percent  
17 confidence. It's really hard to boil this down in just a  
18 couple--

19 MR. WLASCHIN: Sure.

20 MR. OMEL: --minutes.

21 MR. WLASCHIN: Sure.



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1       MR. OMEL: I can explain much more later. I'll bring a  
2 chart and an easel. Any kind of audit you want to do, you want  
3 to dive into and discuss, I'm happy to do so, and also answer  
4 questions, as well.

5       MR. WLASCHIN: Thank you, Tucker. So now, Secretary, we  
6 are interested in hearing from you and your team and the  
7 legislatures here about anything that's on your mind. I'm  
8 thinking a couple rounds of questions, and then get up and tour  
9 this building. Then come back and do some more if that works  
10 for you. Would you like to start or point to somebody to--

11       MS. JOHNSON: I could just say we are doing our summer  
12 study which is (inaudible) to see if what type of audit works  
13 the best for South Dakota. So we brought in a team of sixteen  
14 people, and some of them are in the room. So that's where  
15 we're hoping to go. We did get some legislation. We just want  
16 to know if that's the right fit for South Dakota. So I don't  
17 know if anyone else has more specific questions on--

18       MR. OMEL: Is that going to be in Pierre?

19       MS. JOHNSON: Yes.

20       MR. OMEL: Okay.

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1       MS. JOHNSON: Yes.

2       MR. WLASCHIN: Is that involving a university or is it--

3       MS. JOHNSON: Not at this point.

4       MR. WLASCHIN: --a team of experts?

5       MS.SOULEK: So we're bringing in Jennifer Morrell.

6       MR. WLASCHIN: Oh, great. Yeah. She's one of the nation's  
7 experts on post-selection audits.

8       (INAUDIBLE)

9       MS. PETERSON: I have high-level question and it comes from  
10 my position as a representative, not a technical position as the  
11 Secretary of State's office would, you know, (inaudible) because  
12 I am responding to constituents. And the question that I get a  
13 lot is, "Well, why don't we just go back to hand counting?" You  
14 know, the simple answer is, "Well, can you imagine how long that  
15 would take?" Right? But why else would we not go back to hand-  
16 -other than it would be really hard on business for you? But,  
17 you know, I mean how do we respond to our constituents in an  
18 intelligent way, I guess?

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1        MR. WLASCHIN: I can get started and hand it to Katina who  
2 has answered these questions many times. For every question you  
3 get from a constituent, whether it's security to auditing or  
4 hand counting, multiply that times forty and that's kind of Q&A  
5 that we get. Hand counting is a good way to tally ballots for  
6 single races with a small number of candidates, but there's no  
7 way that, like, a presidential year ballot that has multiple  
8 races, multiple candidates, referendums, the number of races  
9 that need to be counted, multiplied by the number of people that  
10 need to be present from a bipartisan group that does the hand  
11 counting or republican or democrat, may be an observer,  
12 etcetera, study after study has shown that people interpreting  
13 voter intent on a hand-marked paper ballot is prone to error.  
14 Lots of times-- And it's been our experience that hand counting  
15 works for small counties. Maybe they do some mail-in voting and  
16 some in-person voting, but it's usual one or two races and a  
17 small number of registered voters. The larger the group of  
18 ballots, the larger number of registered voters you get, the  
19 potential for increased error. These are studies that have been  
20 done around the country. Yes. They do take longer. I'm aware  
21 of the most recent example in Nye County, Nevada where the

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1 county officials there attempted to hand count validate what the  
2 machine count was for a 2022 election in that county, and the  
3 machine count took several hours running from, maybe, 8:00 p.m.  
4 when the polls closed to 2:00 a.m., then they had results. The  
5 hand count of that same number of ballots took upwards of three  
6 weeks, and that's just one county with a few races. And there  
7 was significant error rate with the hand counting. This is  
8 having multiple groups counting the same ballots. It just takes  
9 a very long time, and it's prone to error. Katina, you handle  
10 questions like this over and over again. What else are you  
11 thinking?

12 MS. GRANGER: Yeah. In that same instance that you were  
13 talking about, Chris, that error on that hand counting nine  
14 times twenty-five percent. So that's a significant error rate.  
15 Our machines are dialed in to less than two percent if not a  
16 hundred percent accuracy. Tucker?

17 MR. OMEL: Yeah.

18 MS. ANDERSON: I think it has to be one in five hundred  
19 thousand.

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1        MR. OMEL: Yes. That's-- That's right alongside what I  
2 have, and the certification department could probably tell you  
3 exactly the standard that we have to (inaudible)

4        MR. ???: Yeah. You have half a million ballot marks with  
5 the machines.

6        MS. GRANGER: Yeah. Half a million ballots with zero  
7 errors that we have to pass in order to achieve federal  
8 certification. So twenty-five percent error rate versus zero  
9 percent error rate. So along with the number of things that  
10 Chris brought up, cost effectiveness. You think about the  
11 number of bodies that it would take to count a significant  
12 number of ballots, it's more cost effective to use machines.  
13 Much more accurate to use machines. Humans just aren't set up  
14 to do repetitive counting like that, repetitive motion. It  
15 just-- The statistics and the studies that Chris referenced are  
16 right up there. So cost effective, time management, human  
17 error, acquiring the humans that you need to do that job. So--  
18 But there are a number of articles that we could share with you  
19 that have been written by third parties, not us, that we would  
20 be happy to share with you.

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1       MS. PETERSON: That would be helpful. The studies would be  
2 helpful, too. The more concrete information we can share with  
3 our constituents, the better. There is angst out there, and,  
4 you know, we're sort of the first line of defense they call us.  
5 Right? So it's helpful if we can pass on that information.

6       MS. GRANGER: Of course. Yeah. We'll be happy to share  
7 those with you and get those to your team.

8       MS. PETERSON: Okay. Thank you.

9       MS. GRANGER: And you know what else I found too, you know,  
10 because it takes so long with hand count, you know, voters are,  
11 you know, are not hearing the results. It just-- You know, the  
12 distrust or, you know, like, questioning, like, "Why?" You  
13 know, "How come I'm not hearing anything?" You know, so the  
14 longer it takes to get the word out there, then people are left  
15 wondering, you know, like, "Why haven't they reported anything  
16 yet?"

17       MS. MULALLY: Is that exactly what happened with the last  
18 election?

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1        MS. ANDERSON: Yeah. They stopped. And they had machines  
2 counting ballots. There was a lot of shutdown in 2020, too, and  
3 they had machines counting ballots.

4        MR. WLASCHIN: Machine results are unofficial. They are  
5 available within hours of counting those ballots. Some counties  
6 chose to conduct immediate validation of those machine counts  
7 which stretched out the time. You're probably aware of a couple  
8 of precincts or jurisdictions, even states, that extended the  
9 time when mail-in and absentee ballots could be counted. Some  
10 states count those before election day, then they only produce  
11 the results after the polls have closed on election night.  
12 Other states don't even start counting mail-in and absentee  
13 ballots until the polls close, which extend the time to report  
14 unofficial results by days and even weeks in some cases.

15        MS. PETERSON: But it shouldn't (inaudible) Should it?

16        MR. WLASCHIN: If their machines counted and they're able  
17 to count them early enough. Some states count as soon as  
18 ballots appear, as soon as ballots are mailed in and the  
19 signatures are validated and their state law allows for early  
20 counting, states do that. Florida is one of them.

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1       MS. PETERSON: We don't-- South Dakota-- We can't count  
2 until election day. So--

3       MS. SOULEK: We can do the verification stuff--

4       MS. PETERSON: Right. But we can't--

5 (INAUDIBLE)

6       MR. OMEL: But if you're wanting to (inaudible).

7       MS. MULALLY: The verification, you're just saying--

8       MS. SOULEK: Like on the back of the--

9       MS. ANDERSON: Signature--

10       MS. SOULEK: --application compared to the absentee  
11 ballot signature. Yeah. Correct.

12       MS. MULALLY: Not vote counting?

13       MS. SOULEK: Correct. Yeah.

14       MR. OMEL: Yeah. So an example sometimes we hear about,  
15 "Well, we're using machines. It's two days after the election.  
16 Why are we still counting?" I quite often (inaudible) but this  
17 is for Allegheny County, Pennsylvania. Pittsburgh, Pennsylvania.  
18 That's why traditionally on election day, in Pennsylvania, they



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1 cannot even do a verification or open an envelope until 7:00  
2 a.m. on election day. They have upwards of four hundred  
3 thousand mail-in ballots, meaning they can't start until the  
4 polls open at 7:00 a.m. on election day. They can't even touch  
5 one of their mail-in envelopes. They have to open up the  
6 envelope. They have to open up a different envelope. They have  
7 to verify a signature. They have to unfold it. All these  
8 different steps have to be taken before that ballot can be run  
9 through a machine. That can take a couple days because--  
10 Because of the law, they're not even allowed to open a ballot.  
11 Chris is saying that some states allow you to do some mail work  
12 beforehand. That's why they seem to be done right on election  
13 day whereas other places take a little bit more time. Sorry for  
14 the long-winded answer, but that just gives you a national  
15 perspective of why it could take long even with the machine.

16 MS. REIMER: Could I just get a little example? I just sat  
17 in on a race. I wanted-- In preparation for coming today and  
18 serving on this committee, I attended a count of a race in my  
19 district. And there were three poll workers that were there all  
20 day, and they were the hand counters. They counted three times.  
21 I watched them count. They were off every time. Every time.

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1 And we got done, and they were like, "That was so intense." And  
2 so I just-- I didn't probably realize, you know-- And my area  
3 is small, so my communities are small. But it was intense for  
4 them. It was intense to watch them. And it was-- It was a  
5 really good experience. I'm glad I did that. But to see that  
6 there was an error amongst the three of them every time.

7 MR. WLASCHIN: That's been our experience, too. We have  
8 observed hand counts post-election, but as I mentioned at the  
9 top of my comments, there are good reasons to do hand counts.  
10 And the way they're managed really depends on the training of  
11 the poll workers or the judges doing the counting and the  
12 processes that are approved for counting by the state to be hand  
13 counted. They have a place. Hand counting definitely has a  
14 place in post-election audits.

15 MS. MULALLY: So the question, really, is human error. Why  
16 isn't human error considered when programming a machine or doing  
17 software? How do you verify that there was no human error? I  
18 um, I remember DOS.

19 (INAUDIBLE)

20 MS. MULALLY: Do you understand what--

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1        MR. WLASCHIN: Sure.

2        MS. MUALLY: --I'm asking? The question is if there is--  
3 We all admit that humans make errors. And so the machine can  
4 also make the error if the human made the error in programming  
5 it.

6        MR. WLASCHIN: That's right. That's right.

7        MS. MULALLY: So how is there verification that that error  
8 doesn't come to my state or another state?

9        MR. WLASCHIN: Well I'll tell you we work really hard. Our  
10 programmers are trained in the languages that they are using  
11 that our equipment uses.

12       MS. MULALLY: DOS?

13       MR. WLASCHIN: More modernized than DOS. There are tools  
14 out there to validate the code is operating accurately and there  
15 are no vulnerabilities being inserted or anything like that.  
16 The real proof comes in the quality assurance testing we do  
17 before it ever gets to you. Because the EAC requires one  
18 million--one point five (1.5) million ballot marks without  
19 error, that's what we do in our QA, our quality assurance lab,  
20 over there. We run the same test that the EAC runs to make sure

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1 that that equipment is counting accurately. And we do it over  
2 and over again before that software ever reaches the EAC or the  
3 customer. But then that's not enough. Pre-election logic and  
4 accuracy testing where the clerks and auditors will set up the  
5 equipment for the next election, and bring the public in to  
6 observe and count test decks or test batches of ballots to make  
7 sure that the machine is counting the way it's supposed to. And  
8 only then, after the election, a post-election audit, it  
9 compares the machine counts to the actual paper ballots. You  
10 have to do all these steps to make sure that the results are  
11 accurate. If any one of those screws up, a human or by the  
12 machine, we have processes in place to find them.

13 MS. ANDERSON: Could I ask a question? So we're talking  
14 about the post-election audit process, and so does ES&S ensure  
15 or promote or encourage states like South Dakota that's never  
16 had a post-election audit, do you encourage states that don't  
17 have that, because we're one of five, to do that? I have a few  
18 questions--

19 MR. WLASCHIN: Sure.

20 MS. ANDERSON: --that relate to that, but I'll let you  
21 answer that first.

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1        MR. WLASCHIN: Yes. We do. We encourage states to commit  
2 to some type of post-election audit because it's part of the  
3 checks and balances.

4        MS. ANDERSON: But have you ever encouraged South Dakota to  
5 do one?

6        MR. WLASCHIN: Uh, I (inaudible).

7        MR. SCHWAB: It's come up before. I mean, we haven't  
8 forced them to do it, but we have spoken--

9        MS. SOULEK: There was staff in 2019 that came down and  
10 presented a demonstration on risk-limiting audits.

11       MR. SCHWAB: Yeah. But--

12       MS. SOULEK: That was a conversation that we were having at  
13 the time.

14       MR. SCHWAB: It was a very long discussion, risk-limiting  
15 audits (inaudible).

16       MS. ANDERSON: I believe it did happen in '19 because there  
17 was--there were funds that were passed for through HAVA for the  
18 state to be able to do post-election audits. We think that  
19 money hasn't been used yet, but another part of that question

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1 is, I guess, the tools. So the EAC actually asks for any state  
2 that's using tabulators, the EAC guidelines and recommendations  
3 are that they do a post-election audit to go along with that.  
4 So, I guess, looking at the state and--our state and the ones  
5 here that are legislatures is I think we've done-- I think the  
6 people are rightly concerned because we haven't done a service  
7 to the people to have that process, so people are questioning.  
8 The other part of that that comes up in my mind--And I realize  
9 I'm new, but I've been digging into this for a good year and a  
10 half before I ran for office--is the issue with cast vote  
11 records. So I want to know is there anything proprietary about  
12 the cast vote records, and there has been conversation that ES&S  
13 told our state, prior to Monae, that those records were  
14 proprietary. Well, first, people--the auditors that I associate  
15 with didn't even know what they are, for one. They didn't think  
16 they existed. We're now finding out that, yes, they do exist,  
17 and they are there, but are they proprietary? Is there  
18 something that can't be shared with the public?

19 MR. WLASCHIN: I'm glad you asked that question, and I've  
20 been looking into that since you and I first met at that  
21 presentation. Was it last year?

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1       MS. ANDERSON: It was in January.

2       MR. WLASCHIN: January. I'm sorry. It's running together.  
3 Our machines, our tabulators do produce cast vote records.

4       MS. ANDERSON: Okay.

5       MR. WLASCHIN: The extraction of those and publication of  
6 those or the reports on those require an EMS laptop--

7       MS. ANDERSON: Yeah.

8       MR. WLASCHIN: --to retrieve them. Not all the counties in  
9 South Dakota have an EMS laptop. I understand we provided  
10 information on how to--pricing information on how to go from a  
11 unique laptop in each county or to a more centralized one for  
12 the states. We provided that information. Cast vote records  
13 are treated differently depending on what state you're in. If  
14 the state considers them to be part of the election record, then  
15 the state can produce those using these laptops to extract the  
16 cast vote record. And it's up to the state whether or not you  
17 want to publish it. There's nothing-- I'm going to (inaudible)  
18 over to the lawyer. There's nothing in the cast vote record  
19 that I am aware of that is proprietary. Nothing that we would

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1 want to protect. What it is-- Imagine if you could visualize a  
2 spreadsheet that shows every ballot that was counted--

3 MS. ANDERSON: I've actually seen them.

4 MR. WLASCHIN: It's not linked to a voter in any way.

5 MS. ANDERSON: Right.

6 MR. WLASCHIN: No exposure of voter privacy or anything  
7 like that.

8 MS. ANDERSON: Okay.

9 MR. WLASCHIN: It is a spreadsheet of the tally that the  
10 machine created when it counted those ballots.

11 MS. ANDERSON: Okay.

12 MR. WLASCHIN: Some states release those and publish them.  
13 Others don't because they don't consider them part of the  
14 election records.

15 MS. ANDERSON: Yes. There's counties in Wisconsin and  
16 California that do publish those, so I've been able to see  
17 those.

18 MR. WLASCHIN: May I go on to--



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1        MS. ANDERSON: Oh, yeah.

2        MR. WLASCHIN: --the last part of your question with ES&S  
3        telling the previous Secretary of State and their staff that  
4        these records do not exist or are not available. I have asked  
5        everybody that I know that's connected with South Dakota  
6        business in our company if we made a statement like that, and  
7        the answer is no. ES&S did not advise the previous Secretary of  
8        State and their staff that these records do not exist or not  
9        available, so I think there was a miscommunication.

10       MS. ANDERSON: Okay. Would those records-- Since there's  
11       nothing proprietary and it doesn't identify a voter, and the  
12       NIST standards specifically state what cast vote records are  
13       for, which is for election officials to do an audit. It's for  
14       manufacturers to make sure the machines are running properly,  
15       and it's also-- It lists for public record. So that's pretty  
16       clear in my mind, but then now we have lawsuits in our state  
17       where they are-- And even my own state's attorney is telling me  
18       I can't release any of that because it's not public record, but  
19       it specifically states that they are public record.

20       MR. WLASCHIN: And that is standard.

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1        MS. ANDERSON: Yes. So I just wanted to clarify that.

2        MS. PETERSON: So can I ask a question. On the basis then  
3 on what the state's attorney is saying you can't release that,  
4 if the-- It's call the NIST standard you said?

5        MS. ANDERSON: Well it's coming from the opinion of  
6 the-- Help me with the department. The facts of finding from  
7 the opinion of the board-- Not the Board of Elections. The  
8 Board of Hearings, I believe. Would that be the correct  
9 terminology? I didn't bring that with me.

10       MS. PETERSON: So the--

11       MR. WLASCHIN: National-- I'm sorry. National Institute  
12 of Standards and Technology. NIST.

13       MS. ANDERSON: NIST.

14       MR. WLASCHIN: Prescribe standards for, not just elections,  
15 but all kinds of technology used in critical infrastructure  
16 across the U.S. There is a publication that is produced that  
17 addresses election technology and the reports. It's a national  
18 standard, but it's only a recommendation. It's up to states to

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1 adopt those recommendations as part of state law or existing  
2 standards.

3 MS. ANDERSON: So the Board of Hearing Examiner or the  
4 Hearing Examiner issued an opinion that the cast vote records  
5 are not public record and that the auditors cannot release those  
6 to the public. So I'm still holding on to 2020--November of  
7 2020 election, June of '22 and November of '22, because that is  
8 now in a lawsuit again, or will be, because I feel like those  
9 records need to be released to the public to reassure them  
10 whatever manner they want to analyze that data, it's up to them.  
11 But it needs to be released to them because it is public record.

12 MR. WLASCHIN: My only advice there is to rely on the  
13 county attorney or county legal authority to--

14 MR. ???: Correct. Yeah. It's really up to the state  
15 (inaudible).

16 MS. ANDERSON: Well I feel like it's-- I'm an elected  
17 official. Monae's an elected official. My attorney-- My  
18 state's attorney can give me their advice or their opinion, but  
19 if it's--if it's determined to be public record and there is  
20 nothing proprietary and it does not identify a voter, because

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1 they're telling me it does and they've never looked at them,  
2 then there's some miscommunication there.

3 MR. ???: Yeah. Obviously we can't provide you legal  
4 advice.

5 MS. ANDERSON: Oh, no. I know.

6 MR. ???: So it's really--

7 MS. ANDERSON: I know.

8 MR. ???: --the state and county lawyers to determine how  
9 they want to deal with these cast vote records--

10 MS. ANDERSON: Okay.

11 MR. ???: --unfortunately.

12 MS. PETERSON: But it sounds like maybe there's a  
13 communication link that's missing that maybe--maybe the folks  
14 that are telling you that maybe need to talk directly to  
15 somebody at ES&S so that they're reassured that it's not  
16 proprietary. It sounds like they're going on bad information  
17 wherever they got it.

18 MS. ANDERSON: Right.

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1        MS. PETERSON: Right?

2        MR. WLASCHIN: I see what you're saying. Yeah.

3        MS. PETERSON: So somehow maybe there's a connection that  
4 can be made.

5        MS. MULALLY: I'm wondering is there a connection,  
6 communication gap between your--as you stated your account  
7 management when you send training materials, you train poll  
8 workers, that kind of material. And she just stated a little  
9 while ago that poll workers have no clue.

10       MS. ANDERSON: Well not the poll workers. They wouldn't  
11 have a clue. The auditors don't have a clue what a cast vote  
12 record is, what an audit log is, what--if they have one or don't  
13 have one or how to even figure out if they have it. They don't  
14 know. And so I think there's a lack of training which brings up  
15 another question I'll have later is getting better training, not  
16 just-- I know we have our upcoming fall training for the  
17 auditors, but I want extensive training from ES&S directly for  
18 my employees and myself because everyone that's in there, except  
19 for one person, started in 2020. And I'm new. And they were  
20 not comfortable with running the elections for 2022. They were

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1 self-taught. So I don't think that's-- I don't think that's  
2 good.

3 MR. WLASCHIN: We're going to take action on it--

4 MS. ANDERSON: Okay.

5 MR. WLASCHIN: --to respond to your question.

6 MS. ANDERSON: Okay.

7 MR. WLASCHIN: Ladies and gentlemen, we've been joined by  
8 our Senior Vice President of Software Development, Beth Landry.  
9 She runs all the teams that develop software, firmware,  
10 everything in the EMS and voter registration and electronic  
11 programs. So she has been a big role to us, and she's-- She  
12 used to work at Union Pacific and a couple other places. She's  
13 been in software development the entirety of her adult life. So  
14 she's here today to answer questions on anything.

15 MS. ANDERSON: What was your name?

16 MS. LANDRY: Beth Landry.

17 MS. ANDERSON: Beth.

18 MS. LANDRY: Nice to meet you.

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1 (INAUDIBLE.)

2 MR. WLASCHIN: We'll make sure our contact information is--

3 ???: They're all over--

4 (INAUDIBLE.)

5 MR. WLASCHIN: I will get you our contact info.

6 MS. MULALLY: So you trained the Secretary of State's  
7 office?

8 MS. LANDRY: I might need Jared or someone--

9 MR. SCHWAB: Yeah. So before the primary election of last  
10 year we conducted regional trainings with all of the county  
11 auditors. So we go through how to load the election, how to run  
12 an L&A test, how things actually work. All that fun stuff.  
13 Specifics about cast vote records and audit logs, that's not  
14 really something that we've addressed in the trainings, but  
15 maybe that's something that we can add to our checklist. They  
16 should be aware of the audit logs because all the counties that  
17 have central accounts have the dot matrix audit log printers  
18 that are constantly running, and that's what that's for. So  
19 every county that has a central account should have that audit

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1 log printed from there, and it can also be exported onto a thumb  
2 drive.

3 MS. ANDERSON: Surprisingly there was recently-- The  
4 auditors send out emails where they're all on the same email,  
5 and someone sent out a question that they were wondering, "What  
6 even is an audit log," was the question. I waited. Nobody was  
7 really responding. I know I'm new, but I had audit log from  
8 another county in our state that was provided for a group to  
9 look at. And so I sent, like, four pages of it. It was a total  
10 of forty pages, but I sent four pages of it, whited out the  
11 county, because I didn't want to get a county in trouble, and  
12 sent that for them to see that there's nothing in that audit log  
13 that could identify anything. There were no usernames, no  
14 passwords, no nothing. All it shows is how many ballots were  
15 run through the machine, when it was turned on, when it was  
16 turned off, just basic stuff. And even that cannot be-- The  
17 public is being told they can't see that. I literally got in  
18 trouble for doing that or tried to be gotten in trouble. My  
19 state's attorney said that it was fine what I sent out. I was  
20 only sending it to the auditors to explain to them this is what  
21 it is. There's nothing incorrect about it. There-- These are



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1 just four pages of it. So I don't think our auditors do know  
2 what audit logs are for some reason, even if you went over that.  
3 I don't think they know that. So--

4 MS. MULALLY: In our office, is it mandatory for-- We have  
5 sixty-six counties. There's sixty-six auditors. Is it  
6 mandatory for them to come to training?

7 MS. JOHNSON: It's not mandatory, but we suggest it. We  
8 encourage it.

9 MS. MULLALY: So--

10 MS. JOHNSON: The previous administration, probably-- I  
11 don't know. I wasn't there.

12 MS. SOULEK: I don't think they do attend, and have great  
13 questions, like, at our-- We have them-- So our office hosts  
14 every odd year in the fall a two-day workshop where we go A  
15 through Z through elections. ES&S has always been there. They  
16 add our certifications, all that stuff. The machines are there.  
17 They are there to run things through, answer questions and  
18 everything. Their support team has been great. If we have any  
19 technical issues, ES&S is out there. I just want to step back a  
20 little bit, too. So I left the Secretary of State's office

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1 November of '21. I came back the end of January of this year.  
2 I had never heard of cast vote record until I came back in  
3 office. So this is really new to South Dakota in understanding  
4 this. So yeah. It probably is true that the counties are like,  
5 "I don't know what this is." To say that they don't know what  
6 their audit log is and that it's constantly correcting, I don't  
7 think that's true. I think they probably just have different  
8 terminology for it, but they don't need to feeding paper that's  
9 running through. They can check those because they take those  
10 to report their results later because they get the tickets out  
11 or the printed results so they know that they take those and  
12 they upload those into our election system to report the results  
13 that night. So they probably just have different terminology  
14 and might not be thinking it's an audit log since we currently  
15 don't have audits in South Dakota. It's just the print results  
16 that come out of the machine like the ones who have the machines  
17 in South Dakota. But the training, the regional one they do  
18 provide, are not mandatory, but they do show up. A lot of them  
19 have been through many elections that they know how to run their  
20 machines. So I guess, again, it's up to them if they think they  
21 need additional training. But we do suggest it. We let them

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1 know when it is. Our office has attended those regional  
2 trainings.

3 MR. WLASCHIN: I personally attended one several years ago  
4 at the Ramkota Conference Center. It was very well attended.  
5 There were a series of discussions all day long. I gave like an  
6 hour on security. But it sounds like, to your point, we need to  
7 augment that training.

8 MS. MULALLY: What I was getting at was, you know, if the  
9 auditors don't show up it's kind of like a teacher. A teacher  
10 has to go to mandatory recertification to keep the fact that--  
11 So we've got an auditor that's been elected ten years and  
12 they've run all these elections, they just feel that they just  
13 know everything. They don't have to come. As we know,  
14 technology changes in twenty-four hours. So that might be where  
15 the miscommunications are coming from is because, "Well I  
16 learned this when I first became an auditor." Now they've been  
17 in for fifteen, twenty years, you know, like our auditor in  
18 Pennington County was forty years. She thought she knew  
19 everything there was and didn't have to go to any training. Is  
20 it legal to mandate that they need to be recertified before an

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1 election to make sure that they understand how technology  
2 changes?

3 MS. ANDERSON: Well I was going to say as an elected  
4 official, I don't think you--

5 MS. MULALLY: I'd have to bring a bill.

6 MS. ANDERSON: --can make anything mandatory right now.

7 MS. MULALLY: I'm just saying--

8 MS. ANDERSON: I agree with you.

9 MS. MULALLY: -- like the recertification of teachers.

10 MS. ANDERSON: Yes.

11 MS. MULALLY: You know, auditors-- Let's be honest.

12 Elections are--

13 MS. ANDERSON: Complicated.

14 MS. MULALLY: Well there's consequences.

15 MS. ANDERSON: Yes. And they're important.

16 MS. MULALLY: They're very important. So would the  
17 Secretary of State's Office be opposed to making training for  
18 auditors prior to election, you know even if we made it for a

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1 presidential election only, would you be opposed to making it  
2 mandatory?

3 MR. DEIDRICK: We'd have to talk about a little bit more  
4 about the pros and the cons. One of the pros (inaudible) but  
5 nothing's changed in the technology. If it's running machines  
6 the same today as it was five years ago or it was ten years ago.  
7 The technology I had is (inaudible).

8 MR. SCHWAB: I will say they were very well attended last  
9 year.

10 MS. MULALLY: Okay. I mean, I just-- It's not my forte.

11 MR. SCHWAB: No. You're absolutely right. And me being  
12 involved with South Dakota for seven years, so we did regional  
13 trainings. So we had counties with the same equipment show up  
14 at one place, and we did training which opened up the discussion  
15 of if you weren't thinking of something, maybe an auditor an  
16 auditor brought it up. If somebody didn't attend those, we  
17 followed up with them to make sure they were okay, did they  
18 understand everything. And before elections, we send out  
19 communications quite often to make sure that they're doing  
20 (inaudible) work, that everything's proceeding correctly, the

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1 machines are working, no issues and just get their overall  
2 comfort level. We can't force them to come to training, but we  
3 do our best to follow-up because we want them to be successful.

4 MS. SOULEK: And before the election, they do test their  
5 equipment. So they're running ballots through, and they're  
6 going through that entire process. So if they have issues, they  
7 have to let our office know.

8 MR. SCHWAB: So they're doing everything that they would on  
9 election day before election day.

10 MS. MULALLY: I'm going to be really honest with you. She  
11 did. She did. She did. They all did some homework before  
12 coming here. I purposefully did not do any so that I would have  
13 laymen, stupid questions. So take offense to anything that I--  
14 any questions that I come up with because I didn't do any  
15 homework which is really odd for me. But I figured it would be  
16 best to have someone that had no knowledge of anything that had  
17 to do with the Secretary of State elections or audits.

18 MR. WLASCHIN: I appreciate that. No stupid questions.

19 MS. MULALLY: No. I know, but I'm--

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1        MS. SOULEK: At one of our last workshops, one of the  
2 things I heard was that the Secretary of State's Office didn't  
3 support the county auditors enough, and so I just want to be the  
4 voice for them just letting them know that. You know, we have  
5 provided training, provided resources. ES&S has been a great  
6 resource to answer any questions and stuff, so this is just my  
7 plug for the county auditors. I'm going to stick up for them  
8 because they do some of the hardest work. They're our boots on  
9 the ground. I remember my first election at work, and I got a  
10 message from my mom, "How's ballot counting going?" And I'm  
11 like, "You have no idea what I do." I don't count any ballots.  
12 I thank them, and I want to stick up for them and just let you  
13 know that I want to educate you on everything that they're  
14 doing, what we do have in place to make sure elections are run  
15 smoothly.

16        MR. SCHWAB: And I'll just add one other thing to the that  
17 we'll provide as much training as you want. And at any point we  
18 can provide training to counties in South Dakota, election year,  
19 non-election year, any time.

20        MS. PETERSON: Is there a charge for that?

21        MR. SCHWAB: There is a charge. Yeah.

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1       MS. ANDERSON: I was going to ask that.

2       MS. PETERSON: So you would provide unlimited training, but  
3 there's a charge?

4       MS. ANDERSON: There's a charge?

5       MR. SCHWAB: Uh-huh (yes).

6       MS. PETERSON: Okay. So I (inaudible) with my budget.

7       MS. ANDERSON: Yeah. So that's-- Especially county  
8 budgets.

9       MR. SCHWAB: It is.

10       MS. ANDERSON: The counties get dealt everything, and they  
11 don't have a budget to work with. We're in the process of  
12 finalizing our '24 budget already, and I don't have it in my  
13 budget to pay for ES&S to come and train us. So that means I  
14 have to make the decision to go into this without the training  
15 or go over budget.

16       MS. BENNETT: It sounds like that's probably why we did  
17 regional training to be more economical.



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1        MR. SCHWAB: You have a training fee per day, and then if  
2 five counties show up, we divvy that up per five. So we break  
3 it down into five divided by however much.

4        MS. PETERSON: So that benefit is not included in whatever  
5 licensing or subscription or whatever fee that the state pays?

6        MS. ???: Yeah.

7        MS. ???: I would assume some basic training is included,  
8 but not extensive training.

9        MS. BENNETT: Initially when everyone purchased the  
10 system--

11       MS. ANDERSON: Yeah. But auditors are changing. I'm in  
12 three months, and I'm handed over four DS850's. Our county has  
13 spent a lot of money with you guys. I have all the invoices  
14 right here for the last two years. I've added them up. I  
15 think-- I would like to negotiate some training that we don't  
16 have to pay for because we're either going to go into this next  
17 election without good training or--

18       MS. BENNETT: Well, first and foremost--

19       MS. ANDERSON: --I've got to come up with money.

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1       MS. BENNETT: --we want you to be successful.

2       MS. ANDERSON: Right.

3       MS. BENNETT: We don't want our customers to fail if  
4 someone doesn't run their election route, it's a reflection on,  
5 you know, us, as well. So-- But we can work that out.

6       MS. REIMER: Question. Is there basic training with the  
7 contract when they work, and when is the-- Is that contract  
8 with the state and then with the counties?

9       MS. ANDERSON: No. I have a copy of the agreement. This  
10 is the services agreement. This is the new one that I have not  
11 presented to our commission yet because I don't feel  
12 comfortable. Do you want to look at ours?

13       MS. REIMER: Yeah. So each county then--

14       MS. ANDERSON: I don't know if training's listed in there  
15 at all.

16       MR. WLASCHIN: Trish could answer that.

17       MS. REIMER: I'm just wondering if that is something going  
18 forward some basic type of training that should come with that  
19 contract? Anything that is more extensive could be provided.

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1        MS. RICE: Yes. Absolutely. And that contract that you  
2 have there is our election service contract. That's for coding  
3 your ballots and printing your ballots. So that's what that is.  
4 And it's a bundled package that we offer (inaudible).

5        MS. ANDERSON: And it went up quite a bit.

6        MS. RICE: Training is added in your equipment purchase as  
7 part of the contract. It's also in when you get upgrades. We  
8 usually do the regional like he said. We are there for you.  
9 We're not going to, like Linda said, just let you fall and not  
10 know what you're doing, but we do have to cover our expenses, as  
11 well. So what we need to do-- If we need to figure out  
12 something with the state contract if adding training in once a  
13 year or even just do it with teams. Usually we have an amazing  
14 facility (inaudible). Tucker and I and all of us have worked in  
15 and trained. We might not be there hands-on, but we walk you  
16 through it if it's a budgeting issue with the county--

17        MS. ANDERSON: Well--

18        MS. RICE: --or we can definitely add some training days  
19 in. We're at the conferences, and we would love-- I mean, if  
20 you want--

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1        MS. ANDERSON: I want to-- I want to go through the whole  
2 process with our machines that we use, not on Zoom. I'm a  
3 hands-on learner. I want to be physically there. I want my  
4 staff to be able to learn properly and not have to be self-  
5 taught. They literally sat down last year with the manuals and  
6 self-taught themselves how to operate the machines and do the  
7 election, and that's not good. When there's turnover, we're not  
8 going to buy new machines from you to get training. So we  
9 somehow need to work that out because where I'm sitting right  
10 now is I would prefer to find those teams to hand count, and I  
11 guess I disagree on the human error side. I'm an accountant,  
12 and I can count. And I know a lot of people that can count.  
13 One plus one. I mean, you're counting. You're marking.  
14 There's-- I'm even part of group right now that's doing a study  
15 hand counting ballots. We were able to get the Dodge County  
16 election results, their CVR's, their ballot images. We got--  
17 This is scary, but we got ballot paper from SeaChange. We're  
18 able to print those ballots, and we're sitting down and teaching  
19 ourselves how to hand count efficiently. I can do that for  
20 free, so if I have to pay ES&S for proper training, I don't have  
21 that in my budget. And I'm doing this hand counting study on my

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1 own. This is not part of my job. So-- But that's where I'm  
2 sitting right now.

3 MS. RICE: Yeah. I mean, we can work with you. We do have  
4 many customers across the country that just, you know, put it in  
5 their budget every year or every, you know, even year when they  
6 have elections to do refresher training. You know, we have  
7 offered regional trainings. You know, so if we need to be a  
8 better partner to your accounting, we certainly can. But--

9 MS. ANDERSON: Since we're the largest county, I think that  
10 would be a great idea.

11 MS. RICE: Yeah. Absolutely.

12 MS. ANDERSON: I mean, I'm not trying to heavy hand you,  
13 but, like I said, we spend a lot of money from our county with  
14 ES&S, and I want the people to be trained. And I want our  
15 citizens to have confidence that we're doing a good job.

16 MS. RICE: Well I think (inaudible), you know, at no charge  
17 we will have training for your staff, and we'll work ahead on,  
18 you know, exactly what you want to do to make sure it's  
19 comprehensive.

20 MS. ANDERSON: Okay.

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1        MR. ???: That is something here in Nebraska we work with  
2 the Secretary of State's Office, and they budgeted for that  
3 every other year. They paid for regional trainings for all the  
4 counties, so if that's something that you guys are interested  
5 in, we could look at something like that, too.

6        MS. PETERSON: I really appreciate that. I think because  
7 of the turnover that's really important. I think going forward  
8 we should take a look at building that into the budget in the  
9 Secretary of State's Office, as well. I mean, there should be--  
10 I mean, I'm hoping there's a certain amount that at part of the  
11 agreement we can get that from you. I don't know what all this  
12 agreement includes. I mean, this is the first time I've seen  
13 it, but--

14        MS. ???: We can create a different bundle agreement--  
15 Right, Trish--and just include, you know, that as a service.  
16 It's not, you know, an extra that you have to, you know, budget  
17 for.

18        MS. REIMER: Okay. Again, does that bring back the  
19 Secretary of State's Office to decide that bundle, or does it go  
20 to each county?

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1       MS. ???: I think it's up to the counties.

2       MS. PETERSON: But if we have the largest county here and--

3       MS. REIMER: But I still count.

4       MS. PETERSON: If you'll let me finish. So I represent the  
5 two largest counties in the state, Minnehaha and Lincoln. I  
6 represent both of--

7       MS. REIMER: Well I represent a bigger area.

8       MS. PETERSON: Yeah. But we represent people, not land.  
9 Just saying. Well, Lincoln is not the largest county, and  
10 that's beside the point.

11       MS. ANDERSON: But together it is. Yeah.

12       MS. PETERSON: But Leah can take the lead, I think, and  
13 maybe make other counties aware of what's working for her and  
14 what she's needing so that the other counties can (inaudible)  
15 themselves, too.

16       MS. ANDERSON: And I'm willing to bring--let other counties  
17 come into this, but I just feel like we need--we have the  
18 election management system. We-- I don't-- I haven't even  
19 seen that computer yet. It's up in our IT Department. I don't

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1 even think-- I mean, I, as the auditor, and I'm the one that's  
2 in charge of this and the one that takes the fall if anything  
3 goes wrong, I want to know how that computer works, and I want  
4 to be the one in charge of it, not our IT Department. I want to  
5 understand the whole process, and I want to support the other  
6 counties that are smaller. We-- That's one of my questions is,  
7 with having that computer and that software, can I support the  
8 other counties if they want to-- Like, am I able to decrypt  
9 their cast vote record on their flash drive so that they can do  
10 their audit? Is that possible? Do they have to have it  
11 themselves, or can I assist them?

12 MS. ???: For security purposes, we license that by county.  
13 So you would not be able to take another county's (inaudible)  
14 under EMS for them.

15 MS. ANDERSON: So they each have to have their own?

16 MS. ???: Right.

17 MS. ANDERSON: So only four counties in our state  
18 technically right now could do a proper post-election audit?

19 MR. WLASCHIN: Using cast vote records which is just one  
20 component--



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1        MS. ANDERSON: Okay. Okay.

2        MR. WLASCHIN: --of a post-election audit.

3        MS. ANDERSON: Okay.

4        MS. ???: It's important to remember the cast vote records  
5 aren't the only way to conduct the audit, and Tucker can talk  
6 you through some of those other ways that you can currently do a  
7 hand-eye audit.

8        MS. ANDERSON: Oh, yeah. And I believe multiple methods  
9 would be best, not just that because the cast vote record is  
10 just a duplicate of what went through the machine anyway. So--

11       MR. OMEL: Another thing I think that we have confusion on  
12 was with cast vote record. Part two of that is the ballot  
13 images. And I'm not a hundred percent sure, in talking with  
14 some of the auditors, they said that it's not in state statute  
15 or anything, so I was kind of looking for some guidance from you  
16 guys, as well, on the issue of if we're allowed to--the counties  
17 are allowed to save ballot images or not. That's a setting that  
18 our elections services sets up in Electionware Management  
19 system.

20       MS. ???: Pros and cons.

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1        MR. OMEL: To clarify, every tabulator we sell, every  
2 tabulator in South Dakota right now has the ability to capture  
3 an image of the ballot, front and back. Take a visual picture  
4 of the ballot. We have been told forever that it was not legal  
5 in South Dakota to capture images. A lot of the auditors  
6 wouldn't allow that, so we have disabled the capturing of  
7 images. They're just not available for elections in South  
8 Dakota, however, there's been some word come in lately that  
9 maybe that was a bad misinterpretation or there is no such--  
10 there is no such limit. It doesn't really exist. So we would  
11 like clarification. Are we allowed to turn on ballot image  
12 capturing. Would you want to do that? Those kind of things.  
13 We're hoping to get resolution on that today, or at least have  
14 that discussion.

15        MS. JOHNSON: I would like it.

16        MS. PETERSON: I don't think there is anything preventing  
17 it.

18        MS. ANDERSON: There wasn't. I've read through the  
19 codified law.

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1       MS. SOULEK: I think what was interpreted before, right or  
2 wrong, was that you can't release a voted ballot, an image of  
3 it--

4       MS. ANDERSON: But that's different.

5       MS. SOULEK: I'm just talking about what the interpretation  
6 had been because that's why it was never programmed that way.

7       MS. ANDERSON: Okay.

8       MS. ???: We don't have write-ins. Correct? In South  
9 Dakota? That's one of the main reasons, too. Most states have  
10 write-ins. That's when we save the ballot image. What other  
11 reason-- I guess (inaudible) That's why most states save the  
12 ballot images. They only save the ones of the write-ins. So  
13 that's probably why we went down the route we did with South  
14 Dakota with not saving any because that's kind of the way other  
15 states have done it in the past.

16       MS. REIMER: What are the pros and cons of all that?

17       MS. PETERSON: Before we do that. What do we need to do to  
18 get them official word that, yes, you can do that, or turn it  
19 on? I mean, what--what do you need from us, and how do we get  
20 that done?

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1        MS. ???: It's just a program.

2        MR. OMEL: Yeah. You-- If you guys make that decision  
3 that you want that done, we'll let our election services team  
4 know that they're checking that box to turn on saving ballot  
5 images, and then we can let all the auditors know, as well.

6        MS. SOULEK: Would that come at an additional cost?

7        MS. JOHNSON: That was re-programming. Right? Wasn't--

8        MR. ???: Is there-- I don't think--

9        MR. OMEL: The setting, the default setting is to capture  
10 images. We have to go through extra effort to turn it off, so  
11 you're actually doing us a favor. And I don't think there's an  
12 official declaration that needs to be submitted.

13        MR. WLASCHIN: I would ask for, like, a memorandum.

14        MR. ???: Yeah. I think we just need written approval from  
15 the Secretary of State's Office saying, "Hey, you guys are  
16 authorized to enable the capturing of ballot images." And  
17 that's all we'd really need.

18        MS. PETERSON: And I think we're doing verbal right now.

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1       MS. JOHNSON: If it's okay legally if we can do it. So  
2 before we say yes or no, (inaudible).

3       MR. DIEDRICK: My caution is, if there's someone been  
4 saying it can't be done, they have a reason.

5       MR. SCHWAB: It's been seven years, and it's been no.

6       MR. DIEDRICK: And I don't know what the reason is.

7       MR. ???: (inaudible)

8       MS. ANDERSON: But if you read the codified law that Rachel  
9 was referring to--

10       MR. DIEDRICK: (inaudible)

11       MS. ANDERSON: --it's taking a photo of the ballot, like,  
12 if you're at the election. If you read all the codified law  
13 that's in there, it's taking a photo of the ballot, like, at the  
14 polling place. You can't share a photo--

15       MS. MULALLY: Like going in with your camera--

16       MS. ANDERSON: --of that ballot.

17       MS. MULALLY: --and taking it out.

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1       MS. ANDERSON: Right. Having a ballot image on the cast  
2 vote record gives you the ability to do an audit and look at  
3 that ballot and say, "Yes. It was counted properly." That's--  
4 That's completely different than taking a photo of a--

5       MS. SOULEK: Yeah. And I'm (inaudible) last year how we  
6 always did it, and I think we just need to look into it to make  
7 sure we are doing it. Because I remember the first day I  
8 started elections and the first specification now we always had  
9 that turned off. I'm guessing that the (inaudible) was the  
10 reason, and whatever that's the statute that's sticking out in  
11 my mind right now that I think (inaudible). But I think we need  
12 to just look in it and not be, you know, jump right into  
13 something.

14       MR. ???: Yeah. We're not going--  
15 (INAUDIBLE)

16       MS. SOULEK: We'll look into it.

17       MS. ???: For sure.

18       MR. SCHWAB: We're happy to do it.

19       MS. JOHNSON: But I would like to, if I can.

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1       MS. REIMER: Just the pros and cons of that, and when Leah  
2 was just saying you can go back and double check to make sure  
3 you did it right, what do you mean by that?

4       MS. ANDERSON: Okay. So since we had the conversation that  
5 the cast vote records are used in audits, they are also--should  
6 be public record according to NIST.

7       MS. JOHNSON: They're just dots.

8       MS. ANDERSON: So a person could sit down with that cast  
9 vote record and actually see the ballot and see how it was  
10 counted using that as a source of audit.

11       MS. REIMER: Making sure they line up is what you're  
12 saying?

13       MS. ANDERSON: Yes. That could be an audit source.

14       MS. MULALLY: Would that not correct any problems on  
15 absentee ballots that are folded on a mark?

16       MS. ANDERSON: You could see that. So, yes. That's a good  
17 point, too. Because if a ballot is folded on a mark, sometimes  
18 it is read wrong by the tabulator. That fold can-- If the  
19 tabulator is too sensitive, it can count a vote there where that

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1 fold mark is that maybe wasn't really a vote. So those should--  
2 Well, if they went to adjudication, you could see that and make  
3 that decision, but if they don't go to adjudication, if it just  
4 counts it and doesn't pull it, then you could see that in this  
5 image by looking at the image of the ballot and how the ballot  
6 was counted.

7 MS. ???: We have best practices though for not putting  
8 (inaudible) ovals, not marking--

9 MS. ANDERSON: But some people fold their ballot even if  
10 they shouldn't. I mean, when you're--

11 MS. ???: (inaudible)

12 MS. ANDERSON: The absentee return ballots could be folded.  
13 I mean, you never know. We could ask them not to fold a ballot  
14 but--

15 MS. SOULEK: We ask them not to bend it.

16 MS. ANDERSON: Right.

17 MS. ???: (inaudible)

18 (INAUDIBLE.)

19 MS. REIMER: What are some cons of that type of thing?



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1        MR. DEIDRICK: Other than some auditors around the country  
2 don't want to have that information because if they don't have,  
3 then they don't have that.

4        MS. ANDERSON: Why do they not want to have it?

5        MR. SCHWAB: If you would have-- If you had a small  
6 precinct with one family in there, you could possibly do that.  
7 But there's a setting (audible)

8        MS. PETERSON: That's only in Wyoming.

9 (INAUDIBLE.)

10       MS. ANDERSON: You know, it's funny you bring that up  
11 because that was brought up to me as the argument as to why we  
12 could not release the cast vote record as public records. For  
13 one, I think our hearing examiners, who've never looked at them,  
14 think that we have ballot images on them because that was the  
15 argument that they used was those ballot images, they could  
16 identify the voter if it was a small enough precinct how they  
17 voted. Well if-- One, if we don't have ballot images on our  
18 cast vote records, that's a moot argument. Two, I still-- If  
19 you have a small precinct-- The smallest one I have has a  
20 hundred and sixty-three in-person voters that voted in '22. It

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1 would be very hard for anyone to figure that out, honestly, who  
2 cast which ballot. But let's say-- So the argument that was  
3 given to me was let's say it was small group of-- Let's say  
4 it's twenty people in a precinct, and they all voted for the  
5 same candidate. So you're going to know how they voted. Well  
6 you're going to know that anyway by looking at the results of  
7 the vote and say, "Okay. This person won, and there's only this  
8 many people in the precinct. I know how they all voted." So, I  
9 mean, the argument-- The argument was, like--

10 MR. ???: (inaudible)

11 MS. ANDERSON: Yes.

12 MS. PETERSON: Same argument though. Right?

13 MS. ANDERSON: Same argument. You know by the total--

14 MR. ???: (inaudible) those reports that if you do have an  
15 X amount of people in a precinct you could suppress those totals  
16 from showing up on that report so that they do have a record in  
17 the EMS (inaudible)

18 MS. ANDERSON: Yeah. So that-- That's been my confusion  
19 in all of this with that argument of voter identity in this  
20 court case is you can't argue that. There is no voter identity.

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1 If there's voter identity, then we are breaking the law to EAC  
2 guidelines because there can't be voter identity. It's against  
3 the law to have voter identity.

4 MS. ???: In some of the smaller counties, I know in  
5 Minnesota for instance, I've got a county who truly has two  
6 voters in a precinct. So what if only one voter shows up to  
7 vote, and then we release that ballot, they're going to know how  
8 that person voted. So the smaller counties it could affect  
9 greatly. Larger ones, yeah, you don't have to mess with it as  
10 much. But when you pass a law, it goes to the whole state. You  
11 know? It can't be just because you're bigger you can do it,  
12 another county can't. I wouldn't think. I'm not-- I don't  
13 know the law for sure, but it is-- It's truly-- It's truly to  
14 protect the voter. It's not--

15 MS. MULALLY: Then I would ask the question. Why only two  
16 voters in a precinct?

17 MS. ???: Yes. That's in (inaudible) district. So, yeah.  
18 If you have a small county, there are very (inaudible). If  
19 somebody is in this one area or they have this school or they're  
20 in this township, then they have only two people in that  
21 precinct and they get two ballots.

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1       MS. REIMER: Some of my areas get (inaudible).

2       MS. ANDERSON: But, I guess, what I'm going back to is  
3 South Dakota currently does not have ballot images on their cast  
4 vote record, so the point of saying that the ballot images are  
5 there and they can't be used for public record is wrong.  
6 Period. There are no ballot images on there, so we don't have  
7 that problem.

8       MS. PETERSON: Anybody who's making the argument that you  
9 can't release cast vote record--

10       MS. ANDERSON: Right.

11       MS. PETERSON: --because right now we don't have ballot  
12 images on it.

13       MS. ANDERSON: Right.

14       MS. PETERSON: So it's a moot point--

15       MS. ANDERSON: Yes.

16       MS. PETERSON: --at this point.

17       MS. ANDERSON: At this point, it's a moot point.

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1       MR. ???: Just so we're all on the same page, I just want  
2 to point out that when you cast a ballot to an ES&S tabulator,  
3 two items are created. One is a ballot image. The other is a  
4 cast vote record. They are two separate entities. They are not  
5 merged together. They do not exist together, but they relate to  
6 one another. They're tied together, but they are two separate  
7 documents. All right? And since we don't capture images in  
8 South Dakota, when you try to bring in the software to look at  
9 that image, it simply says, "No image available," because that  
10 image was not captured. The cast vote record is a hundred  
11 percent, always available.

12       MS. ANDERSON: But you can't identify a voter using--

13       MR. ???: There's nothing identifying. Cannot identify on  
14 either one of those.

15       MS. ANDERSON: Right.

16       MR. ???: They might remain with the ballot--

17       MS. ???: Unless they write their name.

18       MR. ???: Yeah. Unless they write something on the ballot.  
19 That might be one minor con to capturing ballot images is that  
20 (inaudible) identifying information.

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1        MR. DIEDRICK: (inaudible) how you vote this way how you  
2 would identify it, well when they look at the ballot image see  
3 on race number two crossed out (inaudible).

4        MS. ???: Or put a star next to the name (inaudible)

5        MR. ???: I can tell you the vast majority of our customers  
6 nationwide have not had enough concern to turn off ballot image.  
7 It is widely--

8        MS. PETERSON: That's good to know.

9 (INAUDIBLE)

10       MR. ???: Yeah. I'll explain the national trend is very  
11 highly towards ballot images.

12       MS. ???: The counties that do not have reporting computers  
13 that are capturing the image, they would still not use those.  
14 You still have (inaudible) computers and not releasing the  
15 images.

16       MR. WLASCHIN: Folks, this is a great conversation. Beth  
17 is going to have to step away. If you have any software related  
18 questions, any development related questions, we'll pass them to  
19 her and get that answer. Okay?

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1 (INAUDIBLE.)

2 MS. ANDERSON: I have a question. Not software related  
3 question, but I know you guys own the software. So technically  
4 who owns the data that we have?

5 MR. WLASCHIN: The counties do.

6 MS. ANDERSON: Okay.

7 MR. ???: You own the data.

8 MS. ANDERSON: Okay.

9 MR. WLASCHIN: We build the machines, the hardware, and we  
10 sell them to you. Some counties lease them, but South Dakota we  
11 sell. The county owns the hardware. We license the software.  
12 You own the data that is generated--

13 MS. ANDERSON: Okay.

14 MR. WLASCHIN: --from elections.

15 MR. ???: I believe you had a question who stores the data?

16 MS. ANDERSON: Uh-huh (yes).

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1       MR. ???: So that's stored in each county. The county runs  
2 their own election, accumulates their own results and stores  
3 their own data.

4       MS. MULALLY: How is that data stored if the data is on a  
5 thumb drive if they don't have access to--

6       MR. ???: Electionware.

7       MS. MULALLY: Well I'm-- I'm confused--

8       MR. ???: (inaudible)

9       MS. MULALLY: (inaudible) the way to capture what's put on  
10 the-- Decryption. How can each county hold that record if the  
11 thumb drive they have can't decrypt (inaudible)

12       MR. ???: So--

13       MS. MULALLY: So how can you even say that they're allowed  
14 to store it when they have no way of reading it because they  
15 can't decrypt it.

16       MR. SCHWAB: So that's just one data point. So they have  
17 their election stick with all the results on there. A media  
18 stick. It's a thumb drive.



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1 (INAUDIBLE.)

2 MR. SCHWAB: They run the ballots through the tabulator.  
3 They run it through the tabulator. The tabulator accumulates  
4 the results, and they run the reports of the results.

5 MR. ???: Off the tabulator.

6 MR. SCHWAB: Off the tabulator. Sorry.

7 MS. ANDERSON: The physical paper reports?

8 MR. SCHWAB: Yeah.

9 MS. ANDERSON: Okay.

10 MR. SCHWAB: They print from a laser printer, and so they  
11 take all the results and they put them in a spreadsheet  
12 (inaudible), from what I've been told in the smaller counties in  
13 South Dakota, And then call or upload those to Total Vote.

14 MS. SOULEK: There's a return page in our system where they  
15 enter those results, and then--

16 MS. ANDERSON: Is that--

17 MS. SOULEK: --(inaudible). There's a return page, and  
18 then that is uploaded onto election night reporting where you

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1 would see the results all in the website where the media is able  
2 to export that information. So that's what you see, on KELO,  
3 the results and everything.

4 MS. MULALLY: So my question is you're saying that the  
5 auditors take that information and they go to a third party, and  
6 then the third party reports to the Secretary of State's Office?  
7 The results?

8 MS. SOULEK: Yeah. So they take those results from the--

9 MS. MULALLY: Bear with me. Why isn't it when the  
10 auditors-- Why can't they send that data directly to the  
11 Secretary of State's Office? Why do they have to go through a  
12 third party?

13 MS. SOULEK: That system that uses the Secretary of State  
14 is called Total Vote. So there's a place within that system  
15 they go and enter all the returns and everything. So they take  
16 the results from the tabulator, and they go into--they log in  
17 securely through the two-factor authentication to get on the  
18 website. They go to returns page, enter the information, which  
19 then exports that to the website so that everyone can see it.  
20 And these are unofficial results on election night. We have

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1 best practices that are supposed to be checking the numbers as  
2 they're entering them in, have two people confirm the numbers,  
3 everything's getting entered in correctly, and then that's what  
4 shows on the website. And then there's exports that the media  
5 is able to capture so that they can show the results on the TV.

6 MS. ???: And I will say it's very common for states to,  
7 you know, partner with, you know, a third party that has  
8 election night reporting packages.

9 MS. SOULEK: Yeah. It's a different-- So this is Total  
10 Vote. Our system is called Total Vote, and so that's where the  
11 voter registration system is in there. That's the system that  
12 also creates the election. That's where they create their  
13 ballots and then export that information. So their ballots and  
14 media and everything so they can run the elections is all  
15 created.

16 MS. MULALLY: Bear with me. I'm really confused here.  
17 You're talking import, export, download, upload. How do you do  
18 that without an internet connection?

19 MS. SOULEK: Well the tabulators, they take the--

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1       MS. MULALLY: Okay. So you've got auditors. You've got  
2 sixty-six auditors, and they've all run an election. So they  
3 have their data. Do they drive to Pierre and hand it to you?

4       MS. SOULEK: No.

5       MS. MULALLY: How do they get the data from the county  
6 auditor to you?

7       MS. SOULEK: They would log in to our Total Vote system--

8       MR. ???: On the county computer.

9       MS. SOULEK: On the county computer. And then they have  
10 two-factor authentication to log into the system. It is on the  
11 Microsoft Government Azure Cloud. That's where the system is  
12 hosted. They would have to be connected to the internet to  
13 access that.

14       MS. ???: They take the totals from the tape.

15       MS. MULALLY: Okay.

16       MS. SOULEK: Take the totals from tape.

17       MS. MULALLY: That's exactly what I wanted hear because you  
18 continually say we're not connected to the internet. Somehow,  
19 someway from the auditor to the Secretary of State's Office you

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1 have to connect-- I don't care if you say it's a private  
2 machine, you know. It's still connected to the internet. It's  
3 in the cloud.

4 MS. ANDERSON: And so is our voter registration. It's in  
5 the cloud.

6 MS. MULALLY: So I'm trying-- I'm just trying to figure  
7 out why you continually say we're not connected to the internet.

8 MR. WLASCHIN: Yeah. The tabulators are not. The machines  
9 that count the votes are not connected to the internet in any  
10 way shape or form. They produce a paper report--

11 MS. MULALLY: Got it.

12 MR. WLASCHIN: --that the auditor reads and then enters  
13 data into the Secretary of State.

14 MS. JOHNSON: Confirms the number. She confirms the  
15 number.

16 MS. MULALLY: So data is on the thumb drive?

17 MR. WLASCHIN: Yeah.

18 MS. MULALLY: So the data from the auditor's office to the  
19 Secretary of State's Office is in the cloud?

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1       MR. WLASCHIN: It's entered manually.

2       MS. MULALLY: Okay. And you're telling me that in this  
3 cloud that this guy over here could (inaudible) on that cloud?  
4 I'm computer stupid. So just--

5       MR. DIEDRICK: Remember one more thing. Those are  
6 unofficial results.

7       MS. MULALLY: Right.

8       MS. ANDERSON: But--

9       MR. DIEDRICK: Those results are then crosschecked on the  
10 date they go back and do the canvas to make sure that those  
11 results were accurate, and then the official count comes out.

12       MS. MULALLY: But the canvas isn't a recount.

13       MS. ANDERSON: Yeah. No. A canvas in our county is our  
14 county commissioners asking somebody to tell them what they're  
15 looking at. They have no clue whatsoever what they're looking  
16 at, and they just sign it. We're good.

17       MS. PETERSON: And this is the largest county in the state.

18       MS. ANDERSON: Right. I went-- I went to watch it.

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1       MR. DIEDRICK: Right. It does say, "Joe Brown had fourteen  
2 votes." That's what we entered into the system, and that's what  
3 it showed on the unofficial results. They're looking back and  
4 saying, "Is that correct? Did Joe Brown have fourteen votes?"  
5 (inaudible)

6       MS. ANDERSON: But I can guarantee you that the  
7 commissioners at my county, because I went to their  
8 certification to the meeting, they didn't know what they were  
9 doing. They didn't know what they were looking at. I don't  
10 think a single one of them sat there and verified that Joe Brown  
11 had fourteen votes, and we entered fourteen votes for him or  
12 where that even came from. They have no clue.

13       MS. JOHNSON: But, Leah, I would say that's also human  
14 error. What does that have to do with the tabulator?

15       MS. ANDERSON: No. It doesn't have anything to do with  
16 the tabulators. So--

17       MS. JOHNSON: Whether--

18       MS. ANDERSON: --I agree with that. So this is probably a  
19 side, like, a non-ES&S conversation, but it does have a lot to  
20 do with Total Vote and where all of that is stored in the cloud

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1 and the fact that I can't pick out my own password. You guys  
2 have to know what it is for me to have a password. I don't feel  
3 secure with that. So I would rather call your office with my  
4 vote count and say, "Here's my vote count," or whatever or fax  
5 you a sheet a paper or something. But to take it and put it  
6 into Total Vote, I don't know.

7 MS. MULALLY: So is Total Vote run by the state? I mean,  
8 is it--

9 MS. PETERSON: I missed the question. What is Total Vote?

10 MS. ???: It's a South Dakota run company.

11 (INAUDIBLE.)

12 MS. SOULEK: So Total Vote is our system that we have our  
13 voter registration file in. It's where the counties do all  
14 their updates. All the driver's license applications go through  
15 there. They enter new voters. So our office oversees that  
16 system.

17 MS. ANDERSON: Not anymore. Total Vote was bought out by  
18 KNOWiNK. And they are not in Pierre. I mean, there is a rep in  
19 Pierre, but the BPro office in Pierre won't talk to us. We have  
20 to go through you guys.



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1        MS. SOULEK: Correct.

2        MS. ANDERSON: But BPro is no longer.

3        MS. SOULEK: So if you hear BPro/KNOWiNK, it's one in the  
4 same. You have BPro was bought by KNOWiNK out of St. Louis.

5 But there still is an office with about twenty staff in Fort  
6 Pierre that assists us (inaudible)

7        MS. PETERSON: Okay. So we're talking BPro. We're talking  
8 KNOWiNK.

9 (INAUDIBLE.)

10       MS. PETERSON: What's Total Vote?

11       MS. SOULEK: That's what our voter system is called.

12       MS. PETERSON: And is that run by you or is that a third  
13 party?

14       MS. SOULEK: So that is a third party that we use to help  
15 manage our system.

16       MS. PETERSON: So Total Vote is the voter registration  
17 system?

18       MS. SOULEK: Yes. It's what the county auditors work with.

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1        MS. PETERSON: That's contracted by a third party? Okay.

2        MS. SOULEK: We're going to be approving that system and  
3 everything and order additional security features like being  
4 able to do your own passwords and stuff. That would be coming  
5 with the upgrade, so that was something that we talked about  
6 with the upgrade.

7        MS. ANDERSON: Can we take it off the cloud?

8        MS. REIMER: I was just thinking maybe we should have this  
9 conversation next week when we're in Pierre, and then stay on  
10 track--

11       MS. ANDERSON: So I do have an ES&S question, then, and  
12 it's related to the--

13       MR. WLASCHIN: Sure. We'll take one more question, and  
14 then we'll take a break.

15       MS. ANDERSON: ES&S question. So I was told the other day  
16 that our-- Okay. So our ExpressVotes, this is-- This relates  
17 to whether or not our ExpressVotes do communicate somehow  
18 internet-wise. Our ExpressVote machine somehow magically the  
19 time updates on it's own, but our DS850's don't. So it helps me

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1 believe that the DS850 is not connected to the internet, but  
2 then it makes me question our hundred and three ExpressVotes  
3 that somehow they do communicate. And in order to know what the  
4 correct time is, there's got to be some communication going on  
5 with that machine.

6 MR. WLASCHIN: So the ExpressVotes do not have any  
7 communication hardware or software. No plug-ins, no wireless,  
8 no wifi, no hardware (inaudible) was added. No software would  
9 allow it to work. Trish or Jared, do you want to talk about the  
10 time updates on ExpressVotes?

11 MS. RICE: The-- I actually I better let Tucker do that  
12 because I've (inaudible)

13 MR. OMEL: Well, the uh, The ExpressVotes, like Chris said,  
14 they have no way of communicating with another, with another,  
15 full stop. They cannot talk to each other.

16 MS. ANDERSON: Not each other, but, yeah.

17 MR. OMEL: Or any--any computer around the world. They may  
18 not-- They may as well not even exist as far as the internet is  
19 related. They don't know-- The internet does not know that  
20 physical device is there. No ES&S device connects to the

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1 internet. Period. So when it comes to your time changing on  
2 the ExpressVote, there are-- It does have an automatic  
3 adjustment for, like, daylight savings and also sometimes when  
4 they're powered off and/or maybe the battery gets really bogged  
5 down, maybe they miss a couple of minutes here or there where  
6 you turn it back on it might be off by a couple of minutes.  
7 You'd have to describe the exact behavior you're talking about a  
8 little bit more in detail. I can maybe give you a more detailed  
9 answer, but I have found that over, yeah, over time they just  
10 kind of stay on the correct time.

11 MS. RICE: So there's also an internal battery. So there's  
12 an internal battery. This is why in the past we recommend that  
13 you charge the equipment every six months to keep those  
14 batteries charged.

15 MS. ANDERSON: I don't think our staff knows that.

16 MS. RICE: Okay. So there's an internal battery. That  
17 internal battery also-- That's how it does the update with the  
18 time. On the 850, we don't have an internal battery. It's got  
19 the USP or the UPS battery in it, so that's the difference  
20 between the 850, the 200 and the ExpressVote. So the 200 and

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1 ExpressVote, they automatically update. The 850 will not. But  
2 it is that internal battery that we have.

3 MS. ANDERSON: So the battery is what is updating the time?

4 MR. SCHWAB: Even when it's off, it's in a deep, deep, slow  
5 life.

6 MS. ANDERSON: Okay.

7 MR. SCHWAB: It can keep track of time (inaudible) daylight  
8 savings time. And if you let it completely go dead, if you  
9 don't charge it--

10 MS. RICE: The time is completely off. The year is  
11 completely off. And that is something we'll start talking to  
12 you guys about in--What--probably three years or so about  
13 changing the batteries because we do have to change those  
14 batteries every five to seven years-ish, depending on the use.  
15 And if you keep them charged. The more you keep them charged,  
16 the longer those batteries are going to last. But if you let  
17 them die, especially with us not having odd-year elections,  
18 (inaudible) going completely dead, those batteries go quick.

19 MS. ANDERSON: Okay.

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1        MS. MULALLY: Do the ES&S tabulator machines have--

2        MR. ???: Modem?

3        MS. MULALLY: That's not my question because I don't even  
4 have a clue what a modem is. I think I know what a router is,  
5 but yeah. IP address. I sit here and I've got a computer on my  
6 desk, and I'm typing away, send out an email. That computer has  
7 what they call and IP address. Right?

8        MR. WLASCHIN: Stand for internet protocol address.

9        MS. MULALLY: Okay. So (inaudible) send an email to you  
10 wants to find out where my computer was located when I sent that  
11 email, they can do that by that address. Right? Does an ES&S  
12 tabulator machine have an IP address?

13       MR. WLASCHIN: Some of the central count tabulators do have  
14 an IP address because they could be linked together via a wire  
15 to talk to each other and aggregate the results to the central  
16 computer in the office.

17       MR. ???: Not in South Dakota.

18       MR. WLASCHIN: Yeah. That is not used in South Dakota.  
19 Other states use it to wire their multiple DS450's and 850's

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1 together to aggregate results to the in-office computer. That  
2 does not happen in South Dakota.

3 MS. MULALLY: Because we have DS--

4 MR. WLASCHIN: Yeah. Yeah. 850's.

5 MS. ???: You're not able to have any type of wireless  
6 transmission.

7 MR. WLASCHIN: And, frankly, you're not big enough.

8 MR. ???: Like the city of Philadelphia has twelve 850's,  
9 four 950's.

10 MS. ???: Yeah. It makes it easier for them, but it goes  
11 into a central, closed network.

12 MR. ???: (inaudible) county's network. It's not-- It's  
13 their own internal network.

14 MS. ???: Yeah.

15 MR. ???: It's not used in South Dakota.

16 MR. OMEL: So to summarize, the DS200's that most of the  
17 counties use, no IP address. Anybody who has a central  
18 tabulator, like the DS850-- These are the big guys that run the

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1 ballots through very, very fast. Those are only used in the  
2 county office. They have the potential to have an IP address,  
3 but nobody in South Dakota uses that functionality, and the only  
4 place it is used is other places in the country. Even if those  
5 places elsewhere in the country use that IP address, that big  
6 scanner is only talking to its other big scanner next to it and  
7 maybe another big scanner next to it, and then a laptop  
8 computer. None of that ever talks to the outside world. It's  
9 called a closed network. They only talk to each other, and they  
10 do not talk to the outside world. They are not connected to the  
11 internet. The rest of the world cannot see them, even if they  
12 tried. Does that answer your question?

13 MS. MULALLY: I understand what a closed circuit is. I  
14 married an engineer.

15 MR. OMEL: Okay. Good.

16 MS. ANDERSON: So of the thirty-three thousand DS200's that  
17 were shipped out unknowingly to locations with modems that  
18 weren't supposed to have modems--That was released in 2020--is  
19 there a list of serial numbers of the ones that do have modems?  
20 So if South Dakota--if the smaller counties wanted to check to



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1 make sure that they didn't have modems in their DS200's, would  
2 they be able to check that via a serial number?

3 MR. WLASCHIN: So I saw that news report, and it is  
4 blatantly false. The reporter did not contact ES&S. We offered  
5 to share information with them. I know it became a news thing  
6 on a big, bigger hit piece against ES&S. Some DS200's in other  
7 states, those states allow and, in fact, require modems to be  
8 installed in their DS200's. South Dakota does not. We have a  
9 process. We have a how-to guide to look into the DS200 for you  
10 to verify that there are no modems in place.

11 MS. ANDERSON: Okay.

12 MR. WLASCHIN: If there were a modem equipped DS200 sent to  
13 South Dakota, it would show up on a contract because those cost  
14 more. They have additional hardware and software in them. We  
15 have your contracts. All the contracts with South Dakota. None  
16 of the DS200's currently present in South Dakota have a modem.  
17 They don't have the hardware. They don't have the software to  
18 make them work. And the last thing is for that modem to work,  
19 the county has to have a service contract with Verizon to allow  
20 that modem to communicate somewhere. So those three things, no  
21 hardware, no software and no Verizon contract to allow the DS200

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1 to communicate. None of those exist in South Dakota. And, yes,  
2 we have a procedure, if a county wants to open up their DS200  
3 and look for a modem, we'd happily share that with you.

4 MS. ANDERSON: So that doesn't void their warranty or  
5 anything--

6 MR. WLASCHIN: No. The procedure we've developed where the  
7 modem is located, if there's one in there, is in plain sight if  
8 you open up the back cover. We have-- Katina has put together  
9 a wonderful how-to to allow you to inspect your DS200's.

10 MS. ANDERSON: I don't have any. I'm just asking for  
11 counties that have them.

12 MS. MULALLY: If the county owns, the machine. I mean,  
13 we're not leasing it from you. We own the machine. Can we buy  
14 a machine from another state?

15 MS. ???: We don't recommend that. We can't stop them.  
16 you know, a jurisdiction could sell something, but we really  
17 don't allow that. It's our intellectual property.

18 MR. ???: The machine or the box, the actual, physical box,  
19 absent the firmware that's on it, is owned by the county. So  
20 you could go technically buy a box from Douglas County Nebraska,

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1 but there's no software provided. So you're buying a big paper  
2 weight in other words. If you want to fire up that machine to  
3 work, you would have to come to us and get a firmware license  
4 that we can put on that machine because it's one license for  
5 that machine.

6 MS. ???: Any proprietary information has to be taken off.

7 MR. ???: Yeah. Because Douglas County would sell it to  
8 you, they would be required through our contract to remove all  
9 the firmware. So in other words, you would get a machine, but  
10 you wouldn't even be able to turn it on because there would be  
11 no firmware on it. You'd have to contact us and say, "Hey, we  
12 got a machine from Douglas County. We'd like your software or  
13 firmware license to put on this machine so we can use." Then we  
14 would do the process of getting a contract, coming out and  
15 loading that firmware on the machine. So the box is yours, but  
16 the software that runs it is not. That's licensed technology.

17 MS. MULALLY: Three words that you used that I--

18 MR. ???: Okay. Sorry.

19 MS. MULALLY: --don't-- Firmware, software--

20 MR. ???: I'm sorry. So the-- I call it firmware. The

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1 firmware that runs the machine is our proprietary firmware.

2 It's what we license to you.

3 MR. WLASCHIN: Programming.

4 MR. ???: Programming. Yeah.

5 MS. MULALLY: The knowledge to do it?

6 MR. ???: Right. Yeah. So that is licensed by us. So if  
7 someone were to get rid of a machine--

8 MS. MULALLY: Firmware and software are basically the same  
9 thing?

10 MR. ???: Kind of. Software is the application that you  
11 use to, like, interact with the machine. The firmware is  
12 software that's loaded on the machine that tells the machine how  
13 to operate, how to make the hardware operate under certain  
14 conditions.

15 (INAUDIBLE.)

16 MR. WLASCHIN: I'd like us to take a break for ten minutes,  
17 and then we're going to give you a tour of this facility. I  
18 have some visitor badges here for you that I'll ask you to put  
19 on while we're walking around the building.

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