State Voting System Certification

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Greetings from North Dakota

- The state that received the top score in the Election Performance Index for the years of 2008, 2010, 2012, and 2014 from The Pew Charitable Trusts.

- Like all states, we are curious to know our score for the 2016 election year, but those results will likely not be available until sometime in 2018 – that is if Pew continues this Index.

- In a similar manner to the other states represented here at this conference, we are also proud of our robust registration initiative.

- There are 1,770,000 registered in North Dakota.
Cattle that is...

According to the ND Stockmen’s Association, ND ranks 4th in the cattle to people ratio.

1. SD 4.32 to 1
2. NE 3.29 to 1
3. MT 2.51 to 1
4. ND 2.45 to 1
5. WY 2.18 to 1
6. KS 2.0 to 1
7. Source: http://www.ndstockmen.org/industry-information/more-cows-than-people/
After the passage of HAVA, details relating to voting system certification needed attention in law and administrative rule for the state to comply with the federal law. Those details included:

- Defining the requirements for HAVA-compliant voting systems;
- Defining what constitutes a vote; and
- Decertifying all non-compliant voting systems and ensuring replacements were procured for all precincts prior to January 2006.
We wrote and passed our laws and rules from the perspective that a federal certification of our voting system would be necessary and wise since it would not be practicable for our small population state to duplicate the certification that was to be done by the Voting System Test Labs (VSTL) and the Election Assistance Commission (EAC).

After everything was in place, all was right with the world and our elections went well from 2004 through 2006 using the new statewide voting system we purchased with the funds provided by HAVA and given to us through the EAC.
Even through things were going well, we couldn’t help but notice that it was taking quite some time for the EAC and the voting system vendors to work through the process for a complete certification of a voting system.

In light of that, we needed to be ready to adapt to election realities that can and often do arise; often unexpectedly and always at the worst time.

So, we amended our administrative rule in 2006 relating to the state certification of voting systems, which stated that the state could only use systems certified by the EAC. The rule was changed to a system that has been approved by a VSTL that is accredited by the EAC.

Little did we realize how quickly we would need to utilize this change.
Our election reality

- In 2008, the June Primary needed two ballot cards for many of the jurisdictions in the state.
- Our election preparations revealed that the firmware in our voting system could not handle a two-page ballot.
- Our vendor had a new version of firmware in for certification that corrected this issue, but it would not be certified in time to be utilized in the election.
Considering our options

- We were left with two choices:
  - Count the votes by hand, or
  - Work with the vendor and the VSTL to make sure the solution would work as promised.
- We chose the second option and we were able to make it work.
In February 2008, days were spent in the lab verifying the solution.

It was a collaborative effort that included the vendor, the VSTL, local election officials from ND, and me representing the state.

In March 2008, we certified the system for use in North Dakota and we deployed the firmware updates to all voting machines in the state.

In June 2008, we administered a successful election.

February to June might seem like a long time, but if we hadn’t been able to complete the work in February and March, we would have been counting ballots by hand in June.
That very same version of firmware was finally given an EAC certification one year later in March 2009.

It isn’t a criticism because this was during the time that the EAC and the vendors were still learning what it would take to create a more agile certification process.

They have made huge steps forward each year since then and I am confident they will continue to do so.
Most people think of a certification as a once and done type of activity, but that is far from the truth.

Each time the firmware needs to be upgraded or the software is changed, the system needs to be recertified.

Sometimes those changes come about because of needs like I described earlier, but others are prompted by the vendor to enhance the system.

On average, we have recertified our system in ND every two years.
With the pace of advancements in technology, I don’t see this changing anytime soon.

In fact, I am convinced that new voting systems need to be constructed to adapt to changes without a complete redesign of the system.

Although it seems that elections are run the same across the country, the reality is that they are quite different from state to state.

Additionally, legislative changes are continuously contemplated that have profound impacts on the these voting systems.
Open primary elections – each political party is given a space on the ballot and the voters select the party in the privacy of the voting booth.

Top two primary – the two candidates receiving the most votes, regardless of party, are nominated to the general election.

Closed primary elections – the voter must decide on a party before being given a ballot.

Straight party ticket selection – by making only one selection.

 Ranked choice voting – voters rank the candidates in order of preference.

Approval voting – voters may vote for as many as they like.
Legislative changes – in the polls

- Vote Centers – all precincts in one location and voters may go to any polling place.
- Multi-precinct polling places – to consolidate the number of locations and take advantage of the ADA accessible facilities.
- Early voting precincts with complete election boards – available to voters in the days leading up to the election.
- Vote by mail – either as it is done in many of the western states where the voter is sent a ballot automatically or as we allow in ND where the voters are all sent an application, but they still must apply to receive the ballot.
Things to be considered in law

- What constitutes a vote? – Issue in paper ballot states because of voter intent considerations and for votes cast on direct record electronic (DRE) machines, a decision still needs to be made as to what equals the vote.

- Does the law specify how a vote must be marked or selected? The law in this regard should be generalized since not all voting systems operate in the same way.

- Does the law specify a text font size?

- Does the law specify that a polling place can only have one precinct?

- When is an absentee or mail ballot considered cast?
Collaboration is necessary!

- Voting system certification in a state must be a collaborative process between the legislature, the Secretary of State or state election board, and the local election officials.

- Each has a part in the process and each is the expert in the area of elections for which he, she, or the organization is responsible.

- This also could not happen without a sensible certification program, which is now handled by the EAC in collaboration with the VSTLs and the National Institute of Standards and Technology.
Thank you!

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