



North Carolina General Assembly
Senate
Majority Leader

SENATOR PAUL R. NEWTON
34TH DISTRICT

OFFICE: 300B LEGISLATIVE OFFICE BUILDING
300 N. SALISBURY STREET
RALEIGH, NC 27603-5925
PHONE: (919) 733-7223
EMAIL: PAUL.NEWTON@NCLEG.GOV
DISTRICT: P.O. BOX 145
MOUNT PLEASANT, NC 28124

August 14, 2023

COMMITTEES:

FINANCE, CO-CHAIR
REDISTRICTING AND ELECTIONS, CO-CHAIR
AGRICULTURE, ENERGY, AND ENVIRONMENT
COMMERCE AND INSURANCE
JUDICIARY
RULES
SELECT COMMITTEE ON NOMINATIONS

Rachel Baron
American Oversight
Records@americanoversight.org

RE: Public Records Request

Dear Ms. Baron

This is in response to your letter dated September 28, 2022, requesting copies of “[a]ll email communications” between Senator Newton and “anyone” containing a list of “key terms” listed. Not all communications meet the definition of a “public record” as that term is defined in state law because they may not constitute documents made or received pursuant to law and in the transaction of public business. Such communications also may be subject to statutory legislative confidentiality and legislative privilege, in addition to attorney-client and any other applicable common law privileges.

My office has attached all responsive communications that do not fall under those privileges and exceptions. Per your request, my office has also excluded all “mass-distribution” news clips and newsletters that contain any “key terms.”

Do not hesitate to contact our office if you have any questions related to your request.

Sincerely,



Sen. Paul Newton





September 28, 2022

VIA EMAIL

Senator Paul Newton
300 North Salisbury Street, Room 300-C
Raleigh, NC 27603
Paul.Newton@ncleg.gov

Re: Public Records Act Request

Dear Senator Newton:

Pursuant to the North Carolina Public Records Act, as codified at North Carolina General Statutes ch. 132, American Oversight makes the following request for records.

Requested Records

American Oversight requests that your office produce the following records as promptly as possible:

All email communications (including emails, email attachments, calendar invitations, and calendar invitation attachments) between (a) Senator Paul Newton, and (b) anyone communicating from an email address ending in .com, .net, .org, .mail, .me, .edu, or .law, containing any of the key terms listed below.

Key Terms:

- | | |
|---------------------------------------|-------------------------|
| i. "Independent State
Legislature" | vii. "Election Clause" |
| ii. "Legislature Doctrine" | viii. "Electors Clause" |
| iii. "Legislature Theory" | ix. "Elector Clause" |
| iv. ISLT | x. "Moore v. Harper" |
| v. ISLD | xi. "Moore v Harper" |
| vi. "Elections Clause" | xii. Harper |

Please note that American Oversight does not seek, and that this request specifically excludes, the initial mailing of news clips or other mass-distribution emails. However, subsequent communications forwarding such emails are responsive to this request. In other words, for example, Senator Newton received a mass-distribution news clip email referencing "Legislature Doctrine," that initial email would not be responsive to this request. However, if Senator Newton forwarded that email to another individual with his own commentary, that subsequent message would be responsive to this request and should be produced.



1030 15th Street NW, Suite B255, Washington, DC 20005 | AmericanOversight.org

Please provide all responsive records from September 1, 2021, through the date the search is conducted.

Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fee.

Guidance Regarding the Search & Processing of Requested Records

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Please search all locations and systems likely to have responsive records.
- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Public Records Act.¹
- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

¹ See Atty. Gen. Josh Stein, *North Carolina Open Government Guide* at 22 (2019), <https://ncdoj.gov/download/141/files/17891/2019-open-government-guide> (“Emails about official business are public records even if they are sent using the personal email account of an employee or official.”).

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight to discuss this request. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

Conclusion

American Oversight is a 501(c)(3) nonprofit with the mission to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.²

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not understand any part of this request, please contact Rachel Baron at records@americanoversight.org or (202)897-2465.

Sincerely,

/s/Rachel Baron
Rachel Baron
on behalf of
American Oversight

² American Oversight currently has approximately 16,000 followers on Facebook and 119,100 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Sept. 22, 2022); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Sept. 22, 2022).

FOX Charlotte interview request

Emma Withrow <Emma.Withrow@QCNews.com>

Fri 7/1/2022 10:24 AM

To: Sen. Paul Newton <Paul.Newton@ncleg.gov>

Cc: Andrew Stiffel (Sen. Paul Newton) <Andrew.Stiffel@ncleg.gov>

Hello,

I'm the Chief Political Correspondent for FOX Charlotte. Today I'd like to get a quick Zoom/ phone interview with Senator Newton to discuss the independent state legislature theory and the Supreme Court's decision to take on the republican lawmaker's case. Is he available anytime before 1:30 pm? The earlier the better works for me.

Thanks,

EMMA WITHROW

Chief Political Correspondent

WJZY-TV, WMYT-TV, QCNews.com

3501 Performance Road

Charlotte, NC 28214

209-602-0051 cell



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Stop Biden 's Federal Takeover Of Elections

Toni Mascherin <drmascherin@gmail.com>

Mon 7/11/2022 7:18 AM

To: Sen. Phil Berger <Phil.Berger@ncleg.gov>; Sen. Warren Daniel <Warren.Daniel@ncleg.gov>; Ralph.Hise@nc.leg.gov <Ralph.Hise@nc.leg.gov>; Sen. Paul Newton <Paul.Newton@ncleg.gov>; Sen. Danny Britt <Danny.Britt@ncleg.gov>; Sen. Norman Sanderson <Norman.Sanderson@ncleg.gov>; Polite, Krishana <krishana.polite@nc.gov>; Grey.Mills@nceg.gov <Grey.Mills@nceg.gov>; Rep. Tim Moore <Tim.Moore@ncleg.gov>; Rep. John Torbett <John.Torbett@ncleg.gov>; Rep. Keith Kidwell <Keith.Kidwell@ncleg.gov>; Rep. George Cleveland <George.Cleveland@ncleg.gov>; Grey.Mills@nc.leg.gov <Grey.Mills@nc.leg.gov>

Dear NC Legislator,

We in NC are heartened that *Moore v. Harper* will be taken up by the US Supreme Court this fall. We hope that the Court will uphold the independent state legislature doctrine, which argues that only state legislatures have authority over the administration of federal elections in their states. As the Constitution's elections clause, states, "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof."

Similarly I urge you to take action to stop Biden's clandestine plan for a federal takeover of elections by turning federal benefits centers into voter registration agencies. Actions recommended in the Federalist article below are highlighted in red:

"Good Government Groups Ask State Officials To Stop Biden 's Federal Takeover Of Elections" by Mollie Hemingway

<https://thefederalist.com/2022/07/07/good-government-groups-ask-state-officials-to-stop-bidens-federal-takeover-of-elections/>

"Governors and other state officials don't have to stand idly by as the **Biden administration plots a federal takeover of elections**. That's the message being sent by the heads of two good government groups in a new memo to state officials".

"The Biden administration wants to use federal government resources for political, get-out-the-vote purposes, and it's up to strong leaders in state and local government to stop them," wrote Russ Vought of the Center for Renewing America and Tarren Bragdon of the Foundation for Government Accountability. "We strongly urge those in positions of power to **stop President Biden's power grab and act soon.**" "It's a "backdoor approach that's designed to ensure Democratic victories at the polls in 2022 and beyond," Vought and Bragdon wrote. The two recommend that **state officials take action** to prevent Biden's plot.

"Since the National Voting Rights Act provides states the authority to designate voter registration agencies beyond those already required by federal law, the federal government cannot designate additional agencies without a change to federal law enacted by Congress. So when federal agencies send "guidance" memorandums to state agencies about **turning federal benefit centers into voter registration agencies**, Vought and Bragdon recommend state officials contact those agencies and "order them not to implement that guidance because it is illegal at worst and unethical and partisan at best."

"Further, they remind states thatthe legislature can pass a law or resolution prohibiting state agencies from applying to become voter registration agencies".

Thank you for your consideration in this urgent and important matter.

Sincerely,
Dr. Toni Mascherin
Cary, NC

Stop Biden's Federal Takeover of elections

Tricia Cullen <triciacullen777@gmail.com>

Mon 7/11/2022 8:13 AM

To: Sen. Phil Berger <Phil.Berger@ncleg.gov>; Sen. Ralph Hise <Ralph.Hise@ncleg.gov>; Sen. Norman Sanderson <Norman.Sanderson@ncleg.gov>; krishana.polite@nc.gov <krishana.polite@nc.gov>; Rep. Grey Mills <Grey.Mills@ncleg.gov>; Rep. Tim Moore <Tim.Moore@ncleg.gov>; Rep. John Torbett <John.Torbett@ncleg.gov>; Rep. Keith Kidwell <Keith.Kidwell@ncleg.gov>; Rep. George Cleveland <George.Cleveland@ncleg.gov>; Sen. Danny Britt <Danny.Britt@ncleg.gov>; Sen. Paul Newton <Paul.Newton@ncleg.gov>

Dear NC Legislator,

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"The Biden administration wants to use federal government resources for political, get-out-the-vote purposes, and it's up to strong leaders in state and local government to stop them," wrote Russ Vought of the Center for Renewing America and Tarren Bragdon of the Foundation for Government Accountability. **"We strongly urge those in positions of power to stop President Biden's power grab and act soon."** "It's a "backdoor approach that's designed to ensure Democratic victories at the polls in 2022 and beyond," Vought and Bragdon wrote. The two recommend that **state officials take action** to prevent Biden's plot.

"Since the National Voting Rights Act provides states the authority to designate voter registration agencies beyond those already required by federal law, the federal government cannot designate additional agencies without a change to federal law

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enacted by Congress. So when federal agencies send "guidance" memorandums to state agencies about **turning federal benefit centers into voter registration agencies**, Vought and Bragdon recommend **state officials contact those agencies and "order them not to implement that guidance because it is illegal at worst and unethical and partisan at best."**

"Further, they remind states that ... the **legislature can pass a law or resolution prohibiting state agencies from applying to become voter registration agencies**".

Thank you for your consideration of this urgent and important matter.

Sincerely,
Tricia Cullen
Cary, NC

Stop Biden 's Federal Takeover Of Elections

Nancy McDonnell <nkmcdonnell@gmail.com>

Mon 7/11/2022 9:54 AM

To: Sen. Phil Berger <Phil.Berger@ncleg.gov>; Sen. Warren Daniel <Warren.Daniel@ncleg.gov>; Sen. Ralph Hise <Ralph.Hise@ncleg.gov>; Sen. Paul Newton <Paul.Newton@ncleg.gov>; Sen. Danny Britt <Danny.Britt@ncleg.gov>; Sen. Norman Sanderson <Norman.Sanderson@ncleg.gov>; Polite, Krishana <krishana.polite@nc.gov>; Rep. Grey Mills <Grey.Mills@ndeg.gov>; Rep. Tim Moore <Tim.Moore@ncleg.gov>; Rep. John Torbett <John.Torbett@ndeg.gov>; Rep. Keith Kidwell <Keith.Kidwell@ncleg.gov>; Rep. George Cleveland <George.Cleveland@ndeg.gov>

Dear NC Legislator,

We in NC are heartened that *Moore v. Harper* will be taken up by the US Supreme Court this fall. We hope that the Court will uphold the state legislature doctrine, which argues that only state legislatures have authority over the administration of federal elections in their state Constitution's elections clause, states, "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed by the Legislature thereof."

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"The Biden administration wants to use federal government resources for political, get-out-the-vote purposes, and it's leaders in state and local government to stop them," wrote Russ Vought of the Center for Renewing America and Tarren Bragdo Foundation for Government Accountability. "We strongly urge those in positions of power to **stop President Biden's power grab** as "It's a "backdoor approach that's designed to ensure Democratic victories at the polls in 2022 and beyond," Vought and Bragdon wrote. ' recommend that **state officials take action** to prevent Biden's plot.

"Since the National Voting Rights Act provides states the authority to designate voter registration agencies beyond those already required by law, the federal government cannot designate additional agencies without a change to federal law enacted by Congress. So when federal "guidance" memorandums to state agencies about **turning federal benefit centers into voter registration agencies**, Vought and recommend **state officials contact those agencies and "order them not to implement that guidance because it is illegal and unethical and partisan at best."**

"Further, they remind states that ... the **legislature can pass a law or resolution prohibiting state agencies from applying to registration agencies**".

Thank you for your consideration of this urgent and important matter.

Sincerely,
 Mike and Nancy McDonnell

North Carolina Election Integrity

Christine Channer <tempeaz7580@gmail.com>

Wed 7/13/2022 1:27 AM

To: Sen. Phil Berger <Phil.Berger@ncleg.gov>; Sen. Ralph Hise <Ralph.Hise@ncleg.gov>; Sen. Paul Newton <Paul.Newton@ncleg.gov>; Sen. Danny Britt <Danny.Britt@ncleg.gov>; Sen. Norman Sanderson <Norman.Sanderson@ncleg.gov>; Polite, Krishana <krishana.polite@nc.gov>; Rep. Grey Mills <Grey.Mills@ncleg.gov>; Rep. Tim Moore <Tim.Moore@ncleg.gov>; Rep. John Torbett <John.Torbett@ncleg.gov>; Rep. Keith Kidwell <Keith.Kidwell@ncleg.gov>; Sen. Warren Daniel <Warren.Daniel@ncleg.gov>; Rep. George Cleveland <George.Cleveland@ncleg.gov>

Cc: Toni Mascherin <drmascherin@gmail.com>

Dear Honorable North Carolina Legislator:

I am most distressed to learn of another attempt by the Biden Administration to have the federal government usurp the authority and power of the states to regulate and administer federal elections. As the United States Constitution's elections clause states, "The Times, Places and Manner of holding Elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof."

Since this nation was founded on the principles of Federalism, I would imagine this latest federal power grab would be of concern to you. I refer you to an article in The Federalist written by Mollie Hemingway for more details. <https://thefederalist.com/2022/07/07/good-government-groups-ask-state-officials-to-stop-bidens-federal-takeover-of-elections/>

Thank you for your attention to this matter. The Tenth Amendment still stands.

Respectfully,
Christine L. Channer
Cary

Stop Biden 's Federal Takeover Of Elections

Dave Trueman <dstrueman@gmail.com>

Wed 7/13/2022 5:02 PM

To: Sen. Phil Berger <Phil.Berger@ncleg.gov>; Sen. Warren Daniel <Warren.Daniel@ncleg.gov>; Sen. Ralph Hise <Ralph.Hise@ncleg.gov>; Sen. Paul Newton <Paul.Newton@ncleg.gov>; Sen. Danny Britt <Danny.Britt@ncleg.gov>; Sen. Norman Sanderson <Norman.Sanderson@ncleg.gov>; Polite, Krishana <krishana.polite@nc.gov>; Rep. Grey Mills <Grey.Mills@ncleg.gov>; Rep. Tim Moore <Tim.Moore@ncleg.gov>; Rep. John Torbett <John.Torbett@ncleg.gov>; Rep. Keith Kidwell <Keith.Kidwell@ncleg.gov>; Rep. George Cleveland <George.Cleveland@ncleg.gov>

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"Further, they remind states that ... the **legislature can pass a law or resolution prohibiting state agencies from applying to become voter registration agencies**".

Thank you for your consideration of this urgent and important matter.

Sincerely, Dear NC Legislator,

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"Further, they remind states that ... the **legislature can pass a law or resolution prohibiting state agencies from applying to become voter registration agencies**".

Thank you for your consideration of this urgent and important matter.

Sincerely, David S. Trueman

--

Stop Biden 's Federal Takeover Of Elections

Jeff Rhoads <jtrhoads@hotmail.com>

Sun 7/17/2022 4:15 PM

To: Sen. Phil Berger <Phil.Berger@ncleg.gov>; Sen. Warren Daniel <Warren.Daniel@ncleg.gov>; Sen. Ralph Hise <Ralph.Hise@ncleg.gov>; Sen. Paul Newton <Paul.Newton@ncleg.gov>; Sen. Danny Britt <Danny.Britt@ncleg.gov>; Sen. Norman Sanderson <Norman.Sanderson@ncleg.gov>; Polite, Krishana <krishana.polite@nc.gov>; Rep. Grey Mills <Grey.Mills@ncleg.gov>; Rep. Tim Moore <Tim.Moore@ncleg.gov>; Rep. John Torbett <John.Torbett@ncleg.gov>; Rep. Keith Kidwell <Keith.Kidwell@ncleg.gov>; Rep. George Cleveland <George.Cleveland@ncleg.gov>

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NC-REP-22-1061-A-000014

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"Further, they remind states that ... the **legislature can pass a law or resolution prohibiting state agencies from applying to become voter registration agencies**".

Thank you for your consideration of this urgent and important matter.

Sincerely,

Jeff

ProPublica Question

Ian MacDougall <Ian.MacDougall@propublica.org>

Fri 8/26/2022 2:50 PM

To: Sen. Paul Newton <Paul.Newton@ncleg.gov>

Dear Sen. Newton—

I hope your week has gone well. I'm a reporter at ProPublica, and I'm writing because I'm working on a longer feature about Moore v. Harper.

I'm planning to visit North Carolina during the week of Sept. 5, and I was wondering whether you'd have time to speak with me about your work as co-chair of the Senate Redistricting & Elections Committee while I'm in the state. I'll be staying in Raleigh, but if it would be easier to meet in the Charlotte area, I'd be happy to make the drive down.

If you'd like to speak by phone beforehand, you can reach me anytime on my cell phone, at 202-714-3777, and you can find examples of my prior work for ProPublica [here](#).

Many thanks. I appreciate it.

All best,

Ian MacDougall

--

Ian MacDougall

ProPublica

155 Avenue of the Americas

New York, NY 10013

Cell/WhatsApp/Signal: 202-714-3777

Website: www.ian-macdougall.com

Twitter: @i_m_m

Full Forensic Audit

Amanda Horne <amandag7673@gmail.com>

Fri 10/1/2021 9:38 AM

To: Sen. Paul Newton <Paul.Newton@ncleg.gov>

Dear Senator Newton,

Good morning. I request a full forensic audit including canvassing for our state of NC.

It was very troubling to hear that the ES&S DS200's version 3.4.1.1 had modems connected. Please get rid of the electronic voting machines. I don't have a lot of trust for the 2022 primaries. I support paper ballots and hand counting.

Attached below is a full forensic audit resource to get started. Thank you very much!

Amanda Horne

Full Forensic Audit Resources

1. What does a full forensic audit consist of?

"An election Full Forensic Audit (FFA) looks at the legitimacy of three major aspects of the reported election results:

- 1 - the Voter,
- 2 - the Machine (voting System Equipment), and
- 3 - the ballot Process."

[https://election-integrity.info/Post Election Audits.pdf](https://election-integrity.info/Post_Election_Audits.pdf)

Resources:

- The Arizona Protocol <https://populistrevolt.com/download/25367/>
- Arizona Audit <https://arizonaaudit.com/about/> - includes Cyber Ninja's Statement of Work
- Judge Rules that Arizona Senate can access 2020 election ballots
- <https://www.fox10phoenix.com/news/judge-rules-that-arizona-senate-can-access-2020-election-ballots>
- Senator Rogers of AZ - email wrogers@azleg.gov. 602-926-3042
- It is advisable to join the **Election Integrity Caucus** spearheaded by VA State Sen Amanda Chase at the Cyber Symposium for resources and support. Richmond: (804) 698-7511 Cell: (804) 370-8727; Email: District11@Senate.Virginia.Gov

2. Does the state legislature have authority over the elections process?

Yes, according to the "Elections Clause", Art. 1, § 4, cl. 1, of the United States Constitution.

Under the Elections Clause, "the states are given[] and in fact exercise wide discretion in the formulation of a system for the choice by the people of representatives in Congress." United States v. Classic, 313 U.S. 299, 311, 61 S.Ct. 1031, 85 L.Ed. 1368 (1941). The power of the States to prescribe the "times, places and manner" for electing federal representatives encompasses nearly every procedural facet of a federal election.

"It cannot be doubted that these comprehensive words embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns; in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved. . . . All this is comprised in the subject of 'times, places and manner of holding elections[.]'" Smiley v. Holm, 285 U.S. 355, 366, 52 S.Ct. 397, 76 L.Ed. 795 (1932).

<https://encyclopedia.lexroll.com/encyclopedia/elections-clause/>

3. How a full forensic audit can be started in North Carolina

a. NC State Law

AZ state law was used to issue the subpoenas. *"It is, of course, not the Court's place to address the wisdom of the Subpoenas. The statutes of this State give the Senators the right to issue subpoenas and to enforce those subpoenas. This Court must follow the law."* ~AZ ruling

<https://s3.documentcloud.org/documents/20492775/maricopa-county-v-fann-superior-court-ruling-2-26-21.pdf>

<https://law.justia.com/codes/arizona/2019/title-41/section-41-1151/>

The links to corresponding NC state law are provided below.

§ **NC GS 120-19.1.** Hearings; examination of witnesses; counsel. (a) Committees of either the House or Senate of the General Assembly of North Carolina may hold separate or joint hearings, call witnesses, and compel testimony relevant to any bill, resolution or other matter properly before the committee.

https://ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_120/GS_120-19.1.pdf

https://ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_120/GS_120-19.2.pdf

https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_120/GS_120-19.3.pdf

https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_120/GS_120-19.4.pdf

Hearings - Witness are under oath

Round 1 - Experts present data on election irregularities.

Cyber & Data experts – Dr. Frank, Draza Smith, Doug Gould

They also hear from those locally doing the data analysis such as the Wake County Election Integrity Committee who created the NC Election Research Summary.v2 report, the North Carolina Audit Force data team, sworn affidavits from canvassing; call Lynn Bernstein as a witness – Wake County Board of Elections whistleblower.

Round 2 - Election officials questioned.

Invite a few county Board of Elections chairs of the counties that are most suspicious to ask them to address the concerns, questions and issues raised in Round 1. In addition ask what their process is for a forensic copy being made before the machines are updated and if the copy has been completed to comply with federal law.

Round 3 - Weigh the information presented in Round 1 and 2.... and call for a Full Forensic Audit to determine the truth.

b. Subpoenas

Whereas AZ law (41-1151) allows a chairperson of a committee or the presiding officer to issue subpoenas, NC law requires the approval of a committee chairman(s) AND leadership. See the attached AZ subpoena issued from a Judiciary Committee. See NC process below.

NC Process for Committees Issuing Subpoenas

Date: November 2, 2018

The subpoena is issued by the chairman (or cochairs) of the committee after being authorized by a majority vote of the committee. The subpoena must also be authorized by leadership as follows:

1. For joint committees, by the President Pro Tempore of the Senate or the President of the Senate and the Speaker of the House of Representatives or the President pro tempore of the House.
2. For Senate committees, by the President Pro Tempore of the Senate or the President of the Senate.
3. For House committees, by the Speaker of the House of Representatives or the President pro tempore of the House.
4. The authorization by leadership is reflected by the officer's signature on the subpoena

https://www.sog.unc.edu/sites/www.sog.unc.edu/files/course_materials/Committee%20subpoenas%20HANDOUT%20%28K.%20Goldsmith%29.pdf

- What papers, documents, or records will the subpoenas require the witness to provide? Please see: <https://www.scribd.com/document/488299626/Scanned-Ballot-Audit-Subpoena#download>
- To whom would the subpoenas be issued? The chairmen of the county boards of the counties that will be audited. They have the keys, so to speak, to all election equipment, ballots, and other documents. The equipment was purchased with county taxes. Please see the section of state law § 163-33 below which states the county board legally has access to what's being subpoenaed.

§ 163-33. Powers and duties of county boards of elections.

The county boards of elections within their respective jurisdictions shall exercise all powers granted to such boards in this Chapter, and they shall perform all the duties imposed upon them by law, which shall include the following:

...

13) Notwithstanding the provisions of any other section of this Chapter, to have access to any ballot boxes and their contents, any voting machines and their contents, any registration records, poll books, voter authorization cards or voter lists, any lists of absentee voters, any lists of presidential registrants under the Voting Rights Act of 1965 as amended, and any other voting equipment or similar records, books or lists in any precinct or municipality over whose elections it has jurisdiction or for whose elections it has responsibility.

c. What committee could start the process?

In AZ, the subpoena was issued from a Judicial Committee. In NC there are these potential committees - Election Law, Redistricting and Elections, Judiciary, Ethics, Local Gov't, State Gov't.

Committee Chairs-

Redistricting & Elections – Senators Daniel, Hise, Newton

Judiciary – Senators Britt, Sanderson

Election Law & Campaign Finance– Rep. Mills

Judiciary 1 – Rep. Davis

Judiciary 2 – Rep. Richardson

Judiciary 3 – Rep. Rogers, Zachary

Judiciary 4 – Rep. Blackwell

In terms of the scope of a forensic audit, once all the election data analysis is complete, it will reveal which of the NC counties' election equipment and complete set of ballots should be forensically audited. Most likely it will not be necessary to audit anywhere near AZ's scope of 2.1 million ballots.

4. What steps are needed to preserve 2020 election data?

It was reported at the Cyber Symposium the election system maintenance and updates completed on the Mesa CO election machines actually changed them, thus not preserving all the Nov 2020 election information. So, Washington state House member Vickie Kraft sent a letter to the Secretary of State asking them to make a **forensic copy** of the election machines before system maintenance or updates are completed. See attached letter.

NC Audit is suggesting that several NC legislators email a similar letter to each of the 100 BOE Directors to ask them to do the same, and copy the NCSBE on the letter. Another alternative is to email a letter to the Executive Director of NCSBE, in addition to the County BOEs rather than copy the NCSBE on the letter. See sample letters.

Federal Code Title 52 USC § 20701

[https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title52-](https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title52-section20701&num=0&edition=prelim)

[section20701&num=0&edition=prelim](https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title52-section20701&num=0&edition=prelim) requires all records and papers related to an election be retained and preserved for a period of twenty-two months. This requires all digital records and data as well.

This is a link to the list of BOE Directors' email addresses.

<https://vt.ncsbe.gov/BOEInfo/PrintableVersion/>

Forensic Copy

This information was provided by Doug Gould, a pioneer in computer forensics. He has studied the vulnerabilities of the ES&S election machines and election management system.

For a forensic copy of the machines, you need a forensic specialist who has a “forensic write blocker”, appropriate forensic software and both training and experience. The disc drive is removed from the system, plugged into the write blocker, and the write blocker is plugged into the computer. Forensic software is then used to capture every bit of data on the disk, including files that have been erased, and even what is left of files partially overwritten.

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