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WHAT HAPPENED IN 2020?

**HOW 2020 ALTERED NORTH CAROLINA
ELECTIONS AND WHAT WE CAN DO TO FIX IT**

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How 2020 Altered North Carolina Elections and What We
Can Do To Fix It

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Executive Summary

President Donald Trump approved the 2020 election in the Tar Heel State saying in 2021, “North Carolina produced a big victory for us, without a fraudulent outcome.”

Nevertheless, there were problems with how the 2020 election was conducted in North Carolina. Those problems undermined the security of the election and cast doubt on whether all of the ballots counted accurately reflected the intent of legal voters in the state.

This report aims to help readers understand how laws, regulations, and practices affected how the 2020 election worked in North Carolina. It then identifies flaws in the system that undermined election security. Finally, it addresses most of those problems with specific policy solutions and identifies others that require further investigation.

Understanding how the system works will help avoid outrage at things that are not actual problems (such as claims of racial bias in mail ballot rejections) and instead direct reforms against real outrages (such as officials suppressing election observers).

Summary of Findings

This report is divided into several sections examining different aspects of the 2020 election. Here is a summary of those sections and their findings:

New Rules: Election Law Changes Between the 2018 and 2020 Elections – The General Assembly passed three major election reforms between the 2018 and 2020 elections (voter ID, absentee ballot reform, and changes in reaction to Covid-19). Those election reforms happened either when one party dominated state government or events conspired to create temporary bipartisan majorities. Reformers should be ready to implement changes whenever the opportunity arises, including tacking reforms onto larger, bipartisan bills.

Misdeeds by the State Board of Elections – The North Carolina State Board of Elections (SBE) undermined election security through its guidance to county elections boards, including placing illegal limits on election observers. For example, the SBE instructed county elections boards to accept mail ballots they knew were not legally transmitted, no questions asked. The SBE's executive also sought to expand her emergency powers, which would have given her the ability to, among other things, alter deadlines for voter registration and acceptance of mail ballots. Those actions highlighted the need for General Assembly oversight of the SBE.

Sue 'til Blue: Lawsuits that Affected the 2020 Election – Litigation altered state legislative and congressional districts ahead of the 2020 election. A set of lawsuits prevented North Carolina from implementing the voter ID constitutional amendment voters approved in 2018. While a federal court rejected an attempt to use Covid-19 as an excuse to undermine election security laws, the SBE entered a collusive lawsuit settlement that undercut some of those same laws just a few weeks later.

Voting Machines: Faulty Systems and Faulty Procedures – North Carolina has successfully moved away from touchscreen-only voting systems responsible for lost votes in past elections. However, eleven counties

used ballot-marking devices (BMDs) in the 2020 election. BMDs produce receipt-style ballots created after a voter has made their selections, which are written in a barcode that only a tabulator can read. The SBE approved at least one BMD based on “inaccurate and misleading information” provided by the manufacturer. Election officials removed modems from some tabulators after the 2020 election, but the SBE has resisted calls to inspect other systems for modems or other problems.

“Zuck Bucks”: The Private Funding of Election Administration – The General Assembly provided the SBE and county elections boards with over \$22 million in additional funds to help cover the additional costs of conducting the 2020 election during the Covid-19 pandemic. Despite that, the Center for Tech and Civic Life sent \$7.2 million (called “Zuck Bucks” because the center’s funds came primarily from Facebook founder Mark Zuckerberg and his wife, Priscilla Chan) to the SBE and 35 county elections boards. Voters in counties that received Zuck Bucks were more likely to vote Democratic than those in counties that did not. In addition, turnout for Democrats increased in counties that received Zuck bucks compared to the state average, while the change in Republican turnout was negligible.

Voter Registration and List Maintenance – Voter registration is not a significant barrier to voting. North Carolina’s voter rolls grew significantly from 2010 to 2020. Total registrations shifted with a slight drop in the overall number of Democrats, a small rise in the number of Republicans, and a significant increase in unaffiliated voters. Despite list maintenance, North Carolina’s voter rolls included hundreds of thousands who had died or moved out of their counties. County boards of elections had limited means to identify and remove those registrations ahead of the 2020 election.

The Surge of Absentee-by-Mail Voting – North Carolina is a “no excuse” absentee-by-mail voting state. Despite that, mail voting had traditionally accounted for only four or five percent of all ballots in the state. That changed in 2020, with mail ballots surging to 18 percent of all ballots in the general election. Of those, a little over two-thirds were accepted,

while about 20 percent were either not counted or were spoiled. About 12 percent of all mail ballots sent to voters remained unaccounted for by the time the SBE certified the election. Due to a lawsuit settlement, mail ballots were accepted nine days after election day instead of the usual three days.

“One-Stop” Early Voting and Same-Day Registration - Almost two-thirds of all North Carolina ballots in the 2020 election were cast in one-stop early voting. A combination of increased budgets for county boards of elections and guidance from the SBE led to the total number of one-stop voting hours almost doubling statewide. Over a hundred thousand people took advantage of same-day voter registration (SDR) in 2020. Although Democrats tend to support SDR more than Republicans do, in 2020 more Republicans used the system. One problem with SDR is that people may still have their ballots counted, even if their voter registration was denied by the county board of elections due to an unverified address.

Provisional Ballots - Provisional ballots occupy a middle ground between legal and illegal ballots. They are a stopgap measure used when it appears that those who wish to vote cannot legally do so. Provisional ballots are set aside while county election officials research the person's eligibility to vote in that election. Most provisional ballots were not counted in the 2020 general election, and Republicans won majorities of those that were counted. Provisional ballots were the subject of official protests in the tightly contested North Carolina Supreme Court chief justice race, mainly due to attempts by the campaign for then-Chief Justice Cheri Beasley to get more such ballots from Democrats counted. Most of those protests failed, indicating that the initial decisions not to count them were correct.

Known Problems with Voting and Counting Ballots - There were several major known problems with voting and counting ballots in the 2020 election, primarily due to human error and mostly corrected by the time of the county canvas. Some one-stop early ballots were initially not counted in Robeson County, while some absentee-by-mail ballots

were counted twice. Two police officers in Durham County were barred from voting while in uniform. They were later permitted to vote. In addition, 500 of the 914 ballots made provisional because records showed a person had already voted were later counted. In some places election officials barred observers from seeing the opening procedures of polling places during early voting and from observing the one-stop and mail tabulation tapes on election night. Those problems have not been corrected. Another uncorrected problem occurred in Anson County, where the husband of a candidate escorted numerous voters into an early voting site and “assisted” them, marking their ballots in violation of state law.

Reported Cases of Election Fraud – The SBE said it received 358 complaints of alleged election fraud during the 2020 and 2021 election periods. They referred only 34 of those, primarily for felon voting, to prosecutors. However, it is still too soon to close the books on possible fraud. Two people who committed numerous counts of absentee ballot fraud in 2016 were not prosecuted until 2020. In addition, there is a severe ongoing problem with prosecutors not pursuing fraud cases referred to by election officials.

Election Data and Post-Election Audits – Understanding how votes are counted in North Carolina helps the public understand why and how election data is reported. For example, North Carolina is a “red shift” state because one-stop and most mail ballots are reported first, while election day ballots, which are dominated by Republicans, are reported later on election day. After each election, the SBE must report the results of post-election audits to the General Assembly. The most important is the “sample audit,” a hand-to-eye recount of two randomly selected precincts, one-stop sites, or county mail ballots. The SBE’s system of audits does not include procedures. Those Procedural audits would produce complete chains of custody for all ballots and voting equipment, verify that all legally eligible voters were allowed to cast a ballot, confirm that only eligible citizens voted, and confirm that election observers and the public had meaningful access to every step of the election process. Much of that information is already collected by local election officials.

Summary of Recommendations

Based on the findings of this report, legislators should be ready to implement changes to election law and other reforms whenever they can. They should also investigate the feasibility of other possible reforms. A partial list of those reforms and suggestions includes:

Absentee Voting:

- ▶ Require that every absentee ballot illegally transmitted to county elections boards be made provisional pending verification that the voter completed the ballot received by the board.
- ▶ Investigate the feasibility of requiring signature matching for absentee ballot container envelopes as an additional layer of security. Any signature-matching system would require training for local election officials and likely also the purchase of specialized software to ensure that all voters are treated equally.
- ▶ Require that county elections boards receive all absentee-by-mail ballots by election day. Military and overseas ballots would be exempted from that requirement per federal law. The deadline to request absentee ballots should be the second Thursday (12 days) before the election. That would give voters enough time to request, receive, and return their mail ballots by election day.

Voting Machines:

- ▶ Require counties to phase out ballot marking devices in favor of hand-marked paper ballots by the end of the 2020s. The only exceptions should be in accordance with the American with Disabilities Act.
- ▶ Require random or systematic outside inspection of ballot tabulators either by a laboratory accredited by the U.S. Election Assistance Commission or by county election officials with legislators or legislative staff observing.

Redistricting and Election Administration:

- ▶ Create a bipartisan advisory committee to draft recommendations for legislative and congressional districts. Per the North Carolina State Constitution, the General Assembly would still be responsible for drawing those districts.
- ▶ Ban the private funding of election administration (“Zuck Bucks” and similar programs). If that’s politically impossible, create a system in which such funds are collected by the SBE and sent to all county boards of elections based on a formula established by the General Assembly. Ban direct contact between county election boards and private funders.
- ▶ Investigate the practicality of requiring partisan balance for staff at one-stop voting locations unless workers from one party are unavailable by statute. There is a similar requirement for partisan balance when staffing election officials at election day polling places.

Voter Registration:

- ▶ Require the North Carolina court system to share data with election boards on people disqualified from jury duty because they are not citizens.
- ▶ Fund interstate data-sharing to help clean voter registration rolls. The General Assembly approved one year of funding for the SBE to join the Electronic Registration Information Center (ERIC). The program is currently the only viable interstate data-sharing program available. If that experiment successfully cleans voter rolls, the General Assembly should continue funding ERIC membership unless a viable alternative becomes available.
- ▶ Require county elections boards to check registration addresses against tax records and other lists to see if they are commercial properties or vacant lots.
- ▶ Make ballots associated with new same-day registrations (as

opposed to address or party changes) provisional until county elections boards confirm the addresses of those registrations.

Voting and Election Observers:

- ▶ Affirm through legislation the right of police officers and others to vote while in uniform.
- ▶ Make it explicit that members of the public, including election observers, have the right to meaningfully observe the logic and accuracy testing of voting machines; the “zero balance” on ballot tabulators on election day; the number of votes on tabulators before and after voting at early voting sites on each day of early voting; and the early and absentee-by-mail ballot tabulation tapes at county boards of elections facilities after polls close.
- ▶ Require election officials to record the names and addresses of those who assist people with one-stop or election day voting, as is already required for absentee-by-mail ballots.

Election Audits and Fraud:

- ▶ Create a body tasked with conducting criminal investigations into alleged election fraud, either as an independent organization or housed within the State Bureau of Investigation. Do not remove the SBE’s internal capacity to investigate allegations of election fraud to determine if elections in which fraud allegedly took place can be certified.
- ▶ Expand the required SBE post-election audit report to the General Assembly. It should include a procedural audit of voter registration, election operations, and a verifiable paper trail of votes. Consider pushing back the date most elections are certified to give more time for county elections boards to complete the more comprehensive audit.

- ▶ Do not allow the SBE to use risk-limiting audits to satisfy the statutory requirement for a sample hand-to-eye count until all counties have switched to hand-marked paper ballots and the SBE has implemented a procedural audit.
- ▶ Investigate the feasibility of having an independent organization conduct at least some sample or random “spot audits.” That organization could be housed in another state government body, such as the Office of the State Auditor, or a private organization accredited by the state.

Other policy recommendations can be found in “Conclusion and Summary of Recommendations.”

Introduction

Former president Donald Trump vouched for the trustworthiness of the 2020 election in the Tar Heel State. In a statement ahead of his appearance at the 2021 North Carolina Republican Party state convention, Trump said: “North Carolina produced a big victory for us, without a fraudulent outcome—missing ballots, illegal voting, dead people voting, and all of the other Democrat tricks.”¹

Is Trump correct?

The available evidence suggests that the certified results of the 2020 general election are accurate in the narrow sense that there is no discrepancy between the votes counted and ballots cast. Those findings are backed by the results of several post-election audits performed by county boards of elections and the North Carolina State Board of Elections, including partial hand recounts in every county. A complete machine and partial hand recount (officially referred to as “hand-to-eye” counting) of the North Carolina Supreme Court chief justice race also supports that conclusion.

While it may be hard to accept, there is no such thing as a completely accurate statewide ballot count in a state as populous as North Carolina. Rerunning ballots through tabulators will produce variation between counts. That tabulation error rate can be due to various reasons: “ballots may be mishandled; machines may have difficulty reading markings; people and machines may make tabulation errors.”² Hand counting, far from being flawless, introduces other potential sources of error, especially as the size of the count gets larger.³ So the goal is not to have all ballot counts be precisely the same; the goal is to have the tabulation error rate lower than the margin of victory of any races on the ballot. Again, by that standard, the count in North Carolina in the 2020 election appears to be accurate.

A more complicated question is whether the certified results are accurate in the sense that they reflect the intent of legal North Carolina voters. That is the focus of this report.

By examining election laws, regulations, and practices, we can see how those impacted the 2020 election and offer policy solutions to any problems found.

The report comes in 12 sections, which can be divided into four broad areas:

- ▶ It starts with investigating recent changes in North Carolina election law and how actions by the North Carolina State Board of Elections and various lawsuits undermined election law.
- ▶ It then examines the reliability of our voter registration rolls and voting systems, especially the ballot marking devices used in some counties. It also finds that counties that accepted “Zuck Bucks,” private funding of local elections administration, had very different partisan voting patterns than those that did not.
- ▶ The report then discusses various forms of voting, examining the procedures and problems associated with absentee-by-mail voting, “one-stop” early voting and same-day voter registration, and provisional ballots.

- The last three sections delve into the “known knowns” of election problems and fraud: reported issues with voting and counting ballots, recorded incidents of election fraud, and the post-election procedures and audits that election officials say verify the accuracy of ballot tabulations.

Each section provides background and context to help readers understand better why elections in North Carolina are conducted the way they are. They end with “lessons learned,” a summary of key findings and, in most sections, a list of policy recommendations.

Something not covered in this report are statistics-based claims of fraud in the 2020 election in North Carolina. There have been several such claims of various levels of veracity before and since the election. The scope of this report concerns the policies that shaped the election and specific recommendations to correct or improve them. A proposal to “stop stealing elections” is not helpful from a practical perspective, nor would it influence anyone allegedly engaged in stealing elections.

This report is indebted to the contributions of Jim Stirling, Research Fellow at the John Locke Foundation’s Civitas Center for Public Integrity. Research interns John Ferebee and Sean Gaffney also contributed to parts of this report. Ferebee provided an initial draft of the section on reported cases of election fraud.

While this report comes out before the November 8, 2022, election, it is written to speak to legislators and other policymakers during the North Carolina General Assembly’s 2023 legislative session and beyond. The lessons of 2020 will apply for years, if not decades, to come.



NEW RULES:
**Election Law Changes Between
the 2018 and 2020 Elections**

The North Carolina General Assembly made several changes in election law between the 2018 and 2020 elections that affected how the latter was conducted. The first was legislation implementing a voter ID constitutional amendment comfortably passed by North Carolina voters in 2018. The legislature also confirmed a set of reforms designed to make it more difficult to traffic absentee ballots. The General Assembly voted to approve a significant bipartisan election bill in the spring of 2020 to secure state and federal funding to county election boards and the North Carolina State Board of Elections (SBE). It also enabled election officials to operate during the coronavirus pandemic more effectively.

Because Republicans lost supermajorities in the 2018 election, the threat of vetoes from Democrat Gov. Roy Cooper prevented legislators from advancing election reforms unless they could get at least some Democratic support.

Photo ID for In-Person Voting

Voter ID has persistently been a popular election security measure across political and demographic groups in North Carolina.^{4,5} The General Assembly put a voter ID constitutional amendment on the ballot for the 2018 general election, which voters approved 55-45%.⁶ The amendment required a photo ID for voting in most circumstances and directed the General Assembly to pass enabling legislation to enforce the amendment.

That same election also broke Republicans' supermajority in the General Assembly, meaning that Democratic members would have enough votes to sustain a veto from Gov. Roy Cooper. So, the lame-duck legislature met in a special session after the election to pass voter ID enabling legislation. That legislation, along with a couple of subsequent amendments, created an impressive list of photo IDs required for citizens to cast a vote (bold added for clarity):

- ▶ **North Carolina driver's license.**
- ▶ **DMV-issued ID:** A special identification card for nondrivers or another form of nontemporary identification issued by the Division of Motor Vehicles of the Department of Transportation.
- ▶ **United States passport.**
- ▶ Free **photo ID issued by a county board of elections.**
- ▶ **Student ID card** issued by
 - » a public university in the UNC system
 - » community college
 - » eligible private college
- ▶ **An employee identification card issued by a state or local government entity, including a charter school,** provided that card is issued in accordance with the law.

- ▶ **A drivers license or nondriver ID card issued by another state,** the District of Columbia, or a territory or commonwealth of the United States, but only if the voter's registration was within 90 days of the election.
- ▶ **Military identification card** issued by the United States government.
- ▶ **Veterans Identification Card** issued by the United States Department of Veterans Affairs for use at Veterans Administration medical facilities.
- ▶ **Tribal enrollment card** issued by a state or federal recognized tribe.
- ▶ **An identification card issued by a department, agency, or entity of the United States government or North Carolina** for a government program of **public assistance**.⁷

The legislation passed over Cooper's veto,⁸ but voter ID was not enforced during the 2020 election because it was tied up both in federal and state courts (see the "Sue 'til Blue: Lawsuits that Affected the 2020 Election" section for details). Courts may not fully resolve the voter ID cases until sometime after the 2022 election.

An Attempt to Protect Absentee-by-Mail Ballots from Ballot Trafficking

Absentee-by-mail voting has long been recognized as more vulnerable to election fraud than other forms of voting.⁹ One thing that makes mail voting less secure is ballot trafficking (also called ballot harvesting). This illegal activity involves political operatives going to people who have requested absentee ballots but have not yet voted, collecting their ballots, and (presumably) delivering them to the local board of elections after committing some type of voter fraud.

Steven F. Huefner, a professor at the Moritz College of Law at the Ohio State University, noted in 2018 that there are four ways in which ballot harvesting by political operatives increases the risk of voting fraud: discarding certain ballots, altering votes, filling out unwanted ballots, and pressuring and unduly influencing the voter. Huefner explained:

At least three distinct kinds of fraud can occur when political operatives “assist” in returning absentee ballots. First, those collecting the ballots can intentionally discard (or conveniently lose or misplace) any ballots they suspect or know (perhaps even by opening the ballot envelopes) have been cast in favor of the “wrong” candidate(s). Second, those collecting the ballots can open the ballot envelopes and change or alter whatever votes the voter originally recorded. Third, those collecting the ballots can collect unvoted ballots (or partially voted ballots) and complete the ballots themselves.

Although this third type of fraud may sometimes depend on the complicity (or negligence) of an absentee voter in possession of an incomplete absentee ballot, the first two types of ballot harvesting fraud can occur without any wrongdoing on the part of the absentee voter, other than being duped into turning the ballot over to a ballot harvester. Moreover, even the third type of fraud sometimes can occur without the complicity of an eligible voter, if the perpetrator is able to request absentee ballots on behalf of eligible voters without those voters’ knowledge and then control the locations to which the ballots are delivered.

Yet a fourth type of problem can arise if the person collecting the ballots improperly influences the voters’ choices in marking the ballots. Although improper influence in the marking or casting of an absentee ballot can occur not only with harvested ballots but also with any other absentee ballot cast outside the presence of election officials, including undue influence exerted by family members within the same household, the practice of ballot harvesting exposes whole groups of absentee voters to greater

risks of such influence. Some may be reluctant to call this conduct “fraud,” but it too is an unlawful distortion of a fair voting process.¹⁰

Despite those concerns, counteracting ballot trafficking was not a priority for North Carolina elected officials.¹¹ That changed after the North Carolina State Board of Elections overturned the 2018 9th Congressional District race due to ballot trafficking. In response, the General Assembly passed Senate Bill 683¹² in 2019 nearly unanimously, making several changes to North Carolina election law to make ballot trafficking more difficult. Those changes included:

- ▶ Requiring each absentee ballot to be accompanied by a copy of the voter’s ID or driver’s license number, state ID number, or the last four digits of the voter’s Social Security number.
- ▶ Obligating the State Board of Elections to create unique absentee ballot request forms for each election year.
- ▶ Stipulating that only the voter, the voter’s near relative or verifiable legal guardian, or a member of a multipartisan assistance team¹³ (MAT) trained and authorized by the county board of elections may fill out and submit absentee ballot requests.
- ▶ Increasing the penalties for some absentee ballot fraud-related activities and making other activities (such as destroying completed absentee ballot request forms with the intent to obstruct a vote) felonies.
- ▶ Making absentee ballot requests private until the voter’s ballot has been accepted in order to prevent ballot traffickers from using lists of people who have requested absentee ballots to target them for ballot trafficking.

Although these measures were derided by certain activists and critics as voting “restrictions,” there is no evidence they harmed absentee-by-mail voting efforts in 2020.

Bipartisan Changes for Voting During the Covid-19 Pandemic

Concerns about voting safely during the Covid-19 pandemic led to another rare piece of election legislation. On June 11, 2020, House Bill 1169,¹⁴ which passed with large, bipartisan majorities, made numerous permanent and temporary changes to election law.

The following are permanent changes to election law included in the bill:

- ▶ Adding a “unique identifier” (a barcode) to absentee ballot container envelopes to allow voters to track their ballots and confirm that the county board of elections had received them.
- ▶ Expanding the period when county boards of elections must hold public meetings to approve or disapprove absentee ballot applications from three weeks before the election to five weeks.
- ▶ Allowing voters to request absentee ballot requests forms by mail, email, or fax.
- ▶ Requiring the State Board of Elections to set up a website that lets voters or their near relatives request an absentee ballot online with an electronic signature.
- ▶ Specifically prohibiting the State Board of Elections or the SBE Executive Director from sending absentee ballots to anyone who did not request them or instituting an all-mail election.
- ▶ Making it a felony for any state or county election board member or employee knowingly to send an absentee ballot to a person who did not request one.
- ▶ Adding “public assistance” IDs to the list of IDs accepted under North Carolina’s voter ID law.

Other provisions of the bill had sunset clauses, meaning that the changes were only for the 2020 general election:

- ▶ Reducing witness requirements for absentee-by-mail ballots from two to one.
- ▶ Allowing county boards of elections to appoint people who live outside of a precinct to fill most precinct assistant positions on election day (but also requiring county boards to work with parties to maintain the partisan balance of election day workers).
- ▶ Allowing people who have been trained and appointed to multi-partisan assistance teams (MATs) by the county board of elections to help any voter with absentee ballot requests and absentee ballots while working in bipartisan groups. MATs traditionally help only those in assisted living facilities.
- ▶ Requiring officials to develop a plan so that MAT members can safely access assisted living facilities.
- ▶ The bill also provided \$4.5 million in matching funds for the North Carolina State Board of Elections to secure \$23.6 million in federal election funds and broadly outlined how the board was to spend that money.

The bill enjoyed bipartisan support, with the handful of “no” votes coming from Democrats who objected to the public assistance IDs being added to the list of photo IDs that can be used for voting. They worried that including such IDs might weaken ongoing lawsuits against North Carolina’s voter ID law (see the section on “Photo ID for In-Person Voting” above).

Lessons Learned

Politicians tend to be leery of making changes to the electoral system that have been critical to their success as politicians. That is no less true in North Carolina. Republicans currently have an advantage in the

electorate persistent enough to win most statewide and legislative races consistently, but it is generally too small for them to impose election reforms unilaterally. Of course, that same dynamic also means that Democrats cannot impose their own reforms.

That partisan logjam is due to ideological differences and to how the parties see election reform as a zero-sum game.

We saw the latter at work in 2021 with the debate over “Zuck bucks,” private election administration funding provided by Mark Zuckerberg (see “‘Zuck Bucks’: The Private Funding of Election Administration” for details). Data showed that Zuck bucks benefitted Democrats in the 2020 election and were probably decisive in Democrat Josh Stein’s 13,622-vote victory for attorney general. So, naturally, Republicans sought to ban private election administration funding, while Democrats fought to keep it and sustained Gov. Roy Cooper’s veto.

The only times North Carolina has produced meaningful changes to election law recently is either when events temporarily shook-up partisan gridlock, such as the 9th Congressional District ballot trafficking in 2018 or the coronavirus pandemic in 2020, or when one party dominated the state government and could unilaterally push its agenda.

The rest of this report includes a host of recommended reforms to how North Carolina conducts elections. Reformers must be ready to move quickly to implement them when either events or election results open a window of opportunity.

A group of people are silhouetted against a large window, sitting at a long table. The sun is setting or rising in the center of the window, creating a bright glow and casting long shadows. The people are engaged in conversation, with one person gesturing with their hand. The scene is captured in a high-contrast, low-key style, emphasizing the shapes of the people and the structure of the window.

MISDEEDS BY THE STATE BOARD OF ELECTIONS

Election laws only work if officials dutifully and effectively enforce them. The North Carolina State Board of Elections (SBE) and our 100 county elections boards have generally performed well and followed election law to the best of their ability. However, there have been several instances of SBE leaders undermining absentee-by-mail ballot security and attempts by SBE leaders to weaken election security more broadly.

This section focuses on policy decisions by the SBE. Mismanagement by county election officials is covered in the “Known Problems with Voting and Counting Ballots” section of this report.

State Guidance Undercutting Absentee Ballot Security

County board of elections workers are on the front line of administering elections and counting ballots. While they work autonomously, they do

so under the guidance of the SBE. Part of that guidance takes the form of Numbered Memos that it regularly issues to county boards and publishes on the website. A couple of those memos demonstrated that SBE policy was to tell election boards to take the minimum level of absentee ballot security that the law requires.

North Carolina law states that completed ballots can be transmitted only by mail or courier service, by the voter, or “by the voter’s near relative or verifiable legal guardian.”¹⁵ That law is designed to help prevent absentee ballot fraud by preventing political operatives from dropping off bundles of ballots at a county board of elections office. To help comply with that law, county boards of elections maintain a log of who delivered absentee ballots to their offices.

SBE Executive Director Karen Brinson Bell effectively nullified that law with her guidance to in Numbered Memo 2020-23:

*Failure to comply with the logging requirement, or delivery of an absentee ballot by a person other than the voter, the voter’s near relative, or the voter’s legal guardian, is not sufficient evidence in and of itself to establish that the voter did not lawfully vote their ballot. A county board shall not disapprove an absentee ballot solely because it was delivered by someone who was not authorized to possess the ballot. The county board may, however, consider the delivery of a ballot in accordance with the rule, 08 NCAC 18.0102, in conjunction with other evidence in determining whether the ballot is valid and should be counted.*¹⁶

There is some logic to not invalidating a ballot without knowing whether it was properly marked and transmitted. Also, the memo stated that the county board could consider that the ballot showed up at their office illegally if they happened to have other evidence on hand indicating that it was not legally voted.

The memo did not, however, instruct county election officials about how they might get evidence to confirm that a ballot was delivered legally. It did not even require them to contact the voters, as election board

workers must do when there are other problems with their absentee ballot container envelopes. Instead, the memo instructed them to assume that the voter or a near relative delivered the ballots.

Even more incredibly, the memo instructed election officials to accept ballots that they knew were transmitted “by someone who was not authorized to possess the ballot.”

Brinson Bell similarly instructed county boards of elections to ignore discrepancies between voters’ signatures on file and those found on absentee ballot container envelopes:

*The voter’s signature on the envelope shall not be compared with the voter’s signature on file because this is not required by North Carolina law. County boards shall accept the voter’s signature on the container-return envelope if it appears to be made by the voter, **meaning the signature on the envelope appears to be the name of the voter and not some other person.** Absent clear evidence to the contrary, the county board shall presume that the voter’s signature is that of the voter, even if the signature is illegible. A voter may sign their signature or make their mark. [emphasis added]*

The law does not require that the voter’s signature on the envelope be compared with the voter’s signature in their registration record.¹⁷

In other words, if the voter signature portion of “Tom Jones” absentee ballot container envelope has the words “Tom Jones” instead of something like “Nancy Smith,” the signature is valid.

As with the instructions on illegally transmitted ballots, the instructions in the memo against verifying signatures offered no example of what might constitute “clear evidence” that a signature is not that of the voter. It also forbade election officials from using the one thing they have on hand to confirm the identity of the voter: the signature on the registration record.

State Board of Elections Head Seeks to Expand Emergency Powers to Undermining Election Security

Brinson Bell used the Covid-19 pandemic to push for various changes in North Carolina's election process. She issued memos to the General Assembly on March 26¹⁸ and April 22, 2020,¹⁹ requesting them to make changes in election law. While the General Assembly agreed to most of Brinson Bell's requests (see "Bipartisan Changes for Voting during the Covid-19 Pandemic"), it rejected others.

While seeking legal changes from the General Assembly, the SBE also sought to give Brinson Bell the power to alter election laws unilaterally.

North Carolina law authorizes the executive director of the SBE to:

...exercise emergency powers to conduct an election in a district where the normal schedule for the election is disrupted by any of the following:

- 1. A natural disaster.*
- 2. Extremely inclement weather.*
- 3. An armed conflict involving Armed Forces of the United States, or mobilization of those forces, including the North Carolina National Guard and reserve components of the Armed Forces of the United States.²⁰*

The implication of each of those emergency power situations is that the General Assembly would not have time to meet and alter election law before an election date. That wasn't the case in 2020, since the General Assembly had time to consider and pass most of Brinson Bell's recommendations months before the general election.

The SBE's proposed rule change would have granted Brinson Bell extensive new powers to alter election laws:

(d) Emergency powers exercised pursuant G.S. 163-27.1 may include, but are not limited to, the following: ...

(2) Delaying or modifying statutory and administrative deadlines at the county and State level, including the dates set for the county and State canvass under G.S. 163-182.5, the deadline to complete and report the sorting of ballots by precinct as required by G.S. 163-132.5G, the voter registration deadline under G.S. 163-82.6(d), and the deadline for receipt of postmarked absentee by-mail ballots under G.S. 163-231(b)²¹

So, among other things, the new regulations would have granted Brinson Bell the power to alter the following:

- ▶ The time when the SBE must officially canvass and announce election results
- ▶ The deadline for voter registration
- ▶ The deadline for accepting mailed ballots

The SBE's attempt to grant Brinson Bell those powers ran into a roadblock at the Rules Review Commission (RRC), the regulatory body tasked with making sure that proposed regulations comport with the law. The commission unanimously and emphatically rejected the SBE's attempt. RRC Commissioner Tommy Tucker was unsparing in his critique of the proposal:

"There is a gross misunderstanding of what the RRC purview is ... or it is a devious stunt by the Board of Elections," said Commissioner Tucker. "I'm concerned this is an end-run around the public, the General Assembly, and the courts."²²

Brinson Bell was later able to gain one of the powers she sought in the rulemaking process — delaying the deadline for accepting mailed ballots — via a lawsuit settlement with Democrat attorney Marc Elias. (See the "Sue 'til Blue: Lawsuits that Affected the 2020 Election" section for details of that settlement.)

State Board of Elections Illegally Prohibits Election Observers

North Carolina law states that party-appointed election observers can be relieved every four hours:

The chair of each political party in the county shall have the right to designate two observers to attend each voting place at each primary and election and such observers may, at the option of the designating party chair, be relieved during the day of the primary or election after serving no less than four hours and provided the list required by this section to be filed by each chair contains the names of all persons authorized to represent such chair's political party. ... Not more than two observers from the same political party shall be permitted in the voting enclosure at any time, except that in addition one of the at-large observers from each party may also be in the voting enclosure.²³

That means that each party may designate up to six precinct-specific observers during a typical 11-hour weekday of early voting, and up to eight observers during the 13 hours of election day.

Despite that, SBE General Counsel Katelyn Love instructed local election officials that “the Chair of each political party in a county may designate two precinct-specific observers to attend each one-stop site.”²⁴ That instruction meant county parties could designate only two observers per day per early voting site, not the six dictated by state law. Love’s instructions also contradicted the SBE’s own regulation, which stated that all election observers “may be relieved after serving no less than four hours.”²⁵

Love’s policy persisted until she received pushback from Heather Ford, an attorney hired by the Trump campaign. At one point, Ford called Love and “finally had to read the law aloud to Love in order to sway her.”²⁶ Love finally relented under that pressure and on October 29, 2020, issued new

guidance that followed the law on election observers.²⁷ Unfortunately, that new guidance was issued after one-stop early voting had started and well after the deadline for party officials to submit their lists of early voting observers. It was also only hours before the deadline for party officials to submit their lists of election day observers.

Love's actions were not simply a matter of making a mistake or poorly writing instructions. In early 2021, she again led an effort to suppress the number of election observers political parties may appoint. That time she did it through an attempt to alter SBE regulations, an attempt that failed due to public opposition to the attempted change, including threats of lawsuits.²⁸

Lessons Learned

The examples included in this section are not an exhaustive list of misdeeds by state election officials in 2020. Others will be discussed in other sections of this report.

The two attempts to suppress election observers and other regulatory misdeeds by the North Carolina State Board of Elections demonstrate that the General Assembly must be diligent in its oversight of the board.

The legislature must also recognize that the current leadership of the SBE will often pursue election security measures only to the minimum level required by law. That means legislators should pass laws strengthening election security, requiring that every ballot be transmitted legally to county elections boards or be made provisional pending verification that the voter completed the ballot the board received.

The legislature should also consider requiring signature matching for absentee ballot container envelopes as an additional layer of security. However, an effective and fair signature-matching system would require training for local election officials and perhaps the purchase of specialized software to make signature matching faster and more consistent.



SUE 'TIL BLUE: **Lawsuits that Affected** **the 2020 Election**

Groups using lawsuits to alter election laws and regulations to their advantage are a fact of political life in North Carolina. The 2020 election cycle featured a host of lawsuits seeking to overturn election laws passed by the General Assembly and an amendment to the state's Constitution approved by voters. There was even a case of the North Carolina State Board of Elections (SBE) collusively settling a lawsuit to alter laws temporarily for the 2020 election after voting had already started.

Redistricting Lawsuits Alter General Assembly and Congressional Maps

Three lawsuits over district borders impacted redistricting in North Carolina.

The first case was *Rucho v. Common Cause*, decided by the U.S. Supreme Court in June 2019. The high court ruled against plaintiffs seeking

to overturn the state's congressional map as a partisan gerrymander. In the ruling, Chief Justice John Roberts wrote that redistricting was a "non-justiciable" political question and that the judicial branch has neither the authority nor means of picking what the correct districts are:

Unable to claim that the Constitution requires proportional representation outright, plaintiffs inevitably ask the courts to make their own political judgment about how much representation particular political parties deserve—based on the votes of their supporters—and to rearrange the challenged districts to achieve that end. But federal courts are not equipped to apportion political power as a matter of fairness, nor is there any basis for concluding that they were authorized to do so.²⁹

North Carolina judges were not as shy about asserting themselves in the politics of redistricting.

In *Common Cause v. Lewis*, a North Carolina district court ruled in September 2019 that General Assembly districts violated the Equal Protection, Free Elections, Freedom of Speech, and the Freedom of Assembly clauses of the state's Constitution.³⁰ The court ordered a partial redraw of House and Senate districts. The legislative defendants chose to accept the decision rather than appeal to a Democrat-controlled North Carolina Supreme Court. In the 2020 election, Republicans had a net gain of three seats in the General Assembly.³¹

Piggybacking on the success of *Common Cause v. Lewis*, the Democrat-backed National Redistricting Foundation, led by Eric Holder, the former U.S. attorney general under Pres. Barack Obama, filed its own lawsuit to attempt to overturn North Carolina's congressional districts. The same North Carolina Superior Court forced a redraw in their decision of the case, *Harper v. Lewis*, this time by enjoining candidate filing pending a full hearing on the districts.³² Rather than wait for that hearing, the General Assembly preempted it by redrawing the congressional map to add two more safe Democratic districts. That was good enough for the court, which gave the new maps its blessing.³³ Again, apprehension of what the North Carolina Supreme Court might decide likely played a

role in the General Assembly not fighting the case further.

North Carolina Voters Approve Voter ID, but Courts Do Not

Constituents approved a voter ID amendment to the North Carolina Constitution in the 2018 general election, and the General Assembly passed legislation to implement voter ID two months later (see the “New Rules: Election Law Changes Between the 2018 and 2020 Elections” section for details).

Lawsuits against the implementation law started immediately in both federal and state courts. The cases stopped voter ID for the 2020 election and are still working their way through the courts in 2022. Although North Carolina’s law is similar to those in other states that have withstood judicial scrutiny, judges have used the overturning of a 2013 North Carolina election law as a reason to apply stricter scrutiny to the 2018 voter ID law.

The first case was the *North Carolina State Conference of NAACP v. Cooper*, heard in the United States District Court for the Middle District of North Carolina. Judge Loretta C. Biggs issued an injunction against voter ID on New Year’s Eve in 2019, claiming the law was racially discriminatory. The bulk of Biggs’ reasoning centered on her animosity towards the General Assembly. Although Biggs acknowledged that the legislature “assiduously follow pre-approved templates, thereby distancing itself from any lingering discriminatory motives,” she nonetheless stated that she was going to make “the State bear the risk of nonpersuasion with respect to intent.” In other words, she was presuming that North Carolina’s voter ID was racially discriminatory unless attorneys for the state could prove that it was not.³⁴

An appeals court unanimously overruled Biggs’ decision, but not until after the 2020 election. The court found that she has unacceptably reversed the burden of proof:

*The district court failed to adhere to our admonishment and the Supreme Court's unmistakable commands in Abbott. Instead, it considered the North Carolina General Assembly's past conduct to bear so heavily on its later acts that it was virtually impossible for it to pass a voter-ID law that meets constitutional muster. In doing so, the district court improperly reversed the burden of proof and disregarded the presumption of legislative good faith. And the remaining evidence in the record fails to meet the Challengers' burden.*³⁵

A similar lawsuit, *Holmes v. Moore*, worked its way through the state court system. A North Carolina appeals court ordered a preliminary injunction in February 2020, stopping voter ID in the election.³⁶ After a Wake County Superior Court later issued a permanent injunction, the North Carolina Supreme Court agreed to bypass the normal appeals process and hear the case in the summer of 2022.³⁷

The third case, *North Carolina NAACP v. Moore*, is by far the strangest because it does not challenge the law that implemented the voter ID constitutional amendment but the amendment itself.

Judge Bryan Collins called the General Assembly a “usurper” body and voided two constitutional amendments, on voter ID and tax limits, in a summary judgment in February 2019. How could a judge declare part of the North Carolina Constitution unconstitutional? He did it by declaring that the amendments voters passed in 2018 were “approved by a General Assembly that did not represent the people of North Carolina,” based on an earlier federal ruling declaring some of the districts in the legislature racial gerrymanders.³⁸

The North Carolina Supreme Court heard the case in the February of 2022. There has not been a final resolution of the case by the publishing date of this report, but instructions from the North Carolina Supreme Court to lower courts indicate that the amendment will be overturned.

Federal Court Rejects Attempt to Use Covid-19 As an Excuse to Alter Election Laws

The coronavirus pandemic gave lawyers an excuse to add more lawsuits to the usual mix of litigation North Carolina faces every election season.

The most important coronavirus-related lawsuit was *Democracy NC v. NC State Board of Elections*.³⁹ It limited how far COVID-19 lawsuits could go in altering election laws. It also set the stage for a later collusive settlement between the State Board of Elections and Democrat attorney Marc Elias.

The plaintiffs in that lawsuit sought a host of changes to North Carolina's election law, claiming that they put an unconstitutional burden on the ability of North Carolinians to vote. Those changes include:

- ▶ Altering the 25-day voter registration deadline
- ▶ Overturning law requiring that absentee ballots be requested on a form created by the State Board of Elections
- ▶ Expanding the types of documents that can be used as proof of residency for absentee ballot requests
- ▶ Allowing political operatives to fill out and submit absentee ballot requests for voters
- ▶ Eliminating the witness requirement for absentee ballots (normally, two witnesses are required, but only one was required for the 2020 election)
- ▶ Eliminating the residency requirement for all precinct poll workers
- ▶ Overturning North Carolina's ban on ballot harvesting
- ▶ Allowing county boards to give some voters an advantage by setting different voting hours for early "one-stop" voting sites
- ▶ Creating a uniform process for allowing absentee ballots with

significant errors to be “cured” (corrected) in some circumstances, such as a missing voter name, address, or signature

Judge William Osteen of the United States District Court for the Middle District of North Carolina rejected all those claims except the uniform ballot curing process in his August 4 ruling. The ruling did not require county elections boards to accept ballots that do not have the required information, only that the curing process for deficient ballots be uniform for all counties.

So, the only Covid-related election law case to be decided in a trial before the 2020 election resulted in a victory upholding North Carolina's election law.

State Board of Elections Joins a Collusive Lawsuit Settlement

Within a few weeks of *Democracy NC v. NC State Board of Elections* decision, the North Carolina State Board of Elections (SBE) and the North Carolina Department of Justice (NCDOJ) worked to snatch defeat from the jaws of that legal victory through a collusive lawsuit settlement.

In a memo to SBE board members ahead of a September 15 meeting, SBE staff noted that the NCDOJ “recommended several areas for settlement in litigation against the State Board” in eight lawsuits:

- ▶ *Democracy North Carolina v. State Board of Elections*
- ▶ *Chambers v. North Carolina*
- ▶ *Taliaferro v. State Board of Elections*
- ▶ *North Carolina Alliance for Retired Americans v. State Board of Elections*
- ▶ *Stringer v. State Board of Elections*
- ▶ *North Carolina Democratic Party v. State Board of Elections*

- ▶ *Advance North Carolina v. State Board of Elections*
- ▶ *Democratic Senatorial Campaign Committee v. State Board*⁴⁰

SBE staff labeled the latter five as “Marc Elias cases.” The NCDOJ memo detailed several election laws they recommended the SBE toss aside in settlements:

- ▶ Changing the deadline for county boards of elections to receive absentee ballots from three days after election day to nine days after election day
- ▶ Requiring county election boards to implement a ballot “cure” process that negates the legal requirement that a witness sign absentee ballot container envelopes
- ▶ Removing the login requirement for absentee ballots delivered to early voting locations⁴¹

The NCDOJ memo threatened election board members with grave consequences. It stated that the SBE would likely lose at least some of those lawsuits and suffer judgments “greater and/or more difficult to administer than the relief requested by the parties” and that settlements would “lessen exposure to claims for attorneys’ fees and costs by prevailing plaintiffs” (page 4 of memo).

Faced with those claims of calamity, board members unanimously voted to authorize SBE Executive Director Karen Brinson Bell to settle with plaintiffs to extend the absentee ballot acceptance deadline and functionally remove the absentee ballot witness requirement.⁴² Brinson Bell had previously sought the power to push back the deadline for absentee ballots through a failed attempt to alter election regulations (see the “Misdeeds by the State Board of Elections” section for details).

Armed with that authorization, the SBE entered a settlement with Elias in *North Carolina Alliance for Retired Americans v. State Board of Elections*. Objections from the General Assembly’s leaders, who were also parties to the lawsuit, were ignored. Judge Bryan Collins also cut the

legislature out of the process when he approved the settlement on October 2.⁴³

The Fallout from the Settlement

The backlash to the SBE's collusive settlement with Elias was swift.

Both Republican members of the state elections board, David Black and Ken Raymond, resigned, saying that SBE and NCDOJ had misled them regarding the lawsuits and proposed settlement.^{44,45} Under pressure from those resignations and General Assembly complaints, the SBE opened the minutes of the closed session in which the board voted to settle the lawsuits to the public. That decision did not quiet complaints against the settlement.

As part of the agreement, the SBE issued new instructions on September 22 to county election officials, telling them to institute the absentee ballot cure process outlined in the settlement agreement immediately. A problem with that instruction is that the SBE did not have the authority to change the law on absentee ballots, because Judge Collins had not yet agreed to the settlement. Attorneys from the Trump campaign sent letters to county election board members across the state asking them to ignore those instructions.

To get around that problem, SBE general counsel Katelyn Love wrote an email to county election officials stating that the absentee ballot cure process is authorized, not by the settlement with Elias, but by Judge Osteen's August 4 order.⁴⁶

Judge Osteen was having none of that. In a September 30 order, he reviewed the SBE's instructions on absentee ballot cures and said he "does not find it consistent with this court's order entered on August 4, 2020." He also found Love's use of his August 4 to justify gutting the witness requirement deceptive (page 7):

Notwithstanding the fact this court upheld the one-witness

requirement and limited the due process remedy to those defects which were subject to remediation, it now appears that on September 22, 2020, the North Carolina State Board of Elections has eliminated the one-witness requirement under the guise of compliance with this court's order.⁴⁷

Osteen officially enjoined the SBE's illegal ballot cure process on October 14. He also found that by changing the absentee ballot deadline after absentee voting had already started, the SBE likely violated the Protection Clause of the Fourteenth Amendment when it entered its settlement with Marc Elias. However, Osteen did not enjoin the absentee ballot deadline change due to the "Purcell principle," which limits what federal courts can do in election law cases shortly before an election.⁴⁸

Lessons Learned

There is no reason to believe that partisans will stop using lawsuits to change election laws they do not like. There is simply no incentive for them to stop. However, policymakers can do things to lessen the chance of successful lawsuits.

North Carolina took an important step toward stopping collusive lawsuit settlements from altering election law (or any law) when Gov. Roy Cooper signed the 2021 state budget. It included a change to state law that requires judges to incorporate legislative defendants in any settlements of lawsuits to which they are a party.⁴⁹ If that prevention had been in place in 2020, Judge Collins could not have cut the General Assembly's attorneys out of the settlement between the SBE and Elias.

For redistricting, the General Assembly should create a bipartisan advisory committee to draft recommendations for legislative and congressional districts. While it would not prevent redistricting lawsuits, it could make those lawsuits less likely to succeed if legislators draw districts that broadly fit within the parameters laid out by the committee.



The background of the slide features a blurred image of a person's hand pointing upwards. Overlaid on this are several digital icons of ballot boxes, each with the word 'VOTE' on it. These icons are connected by a network of lines and dots, suggesting a digital or networked voting system. The overall color scheme is blue and white.

VOTING MACHINES:

Faulty Systems and Faulty Procedures

Election results are only as accurate and reliable as the systems recording them. There are two early steps in conveying citizens' intentions into election results: voters marking their choices and election officials tabulating the ballots. If there is a problem with either of those, public belief in the fairness of elections diminishes. Unfortunately, actions by the North Carolina State Board of Elections before and after the 2020 election undercut confidence in our voting systems.

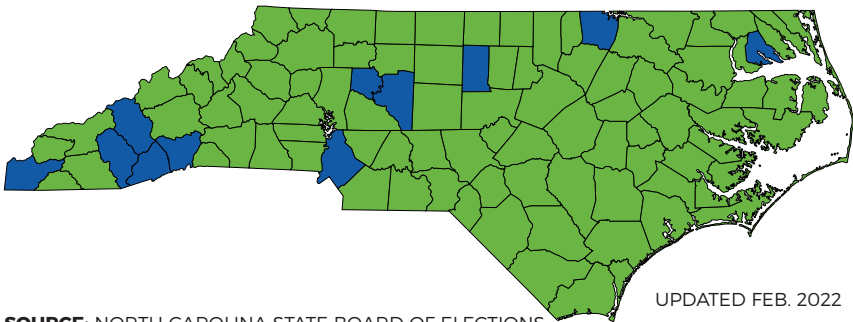
Touchscreen Voting and Ballot Marking Devices

North Carolina has an unfortunate history with problematic voting machines in the twenty-first century. Many of those problems were with touchscreen voting systems, in which voters choose their candidates on the machine's interactive screen. The touchscreen systems did not produce a paper ballot, but instead recorded each voter's choices in its memory. That lack of a paper trail led to several instances of lost votes.

In 2002, two Election Systems & Software's (ES&S) iVotronic system touchscreen voting machines lost 436 early voting ballots during the general election due to a software glitch.⁵⁰ Election officials contacted those voters to redo their ballots on election day. In 2004, a UniLect touchscreen voting system irretrievably lost 4,530 ballots in Craven County.⁵¹ That same year, 800 to 900 constituents were not allowed to vote in a school board race when the touchscreen voting system failed to load those particular ballots.⁵² In 2018, voters in Guilford County reported that the touchscreen voting machines changed their votes,⁵³ a problem the county elections director attributed to the age of the devices, which were purchased in 2006.

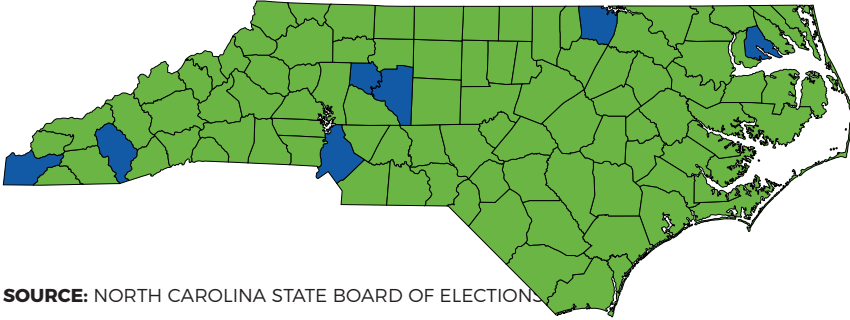
The repeated problems with touchscreen voting machines in North Carolina led to two changes by the time of the 2020 election. The first is that about half of the counties using touchscreen voting systems switched to hand-marked paper ballots. In 2018, 22 counties used touchscreen voting machines for early voting, and 20 used them on election day, with the other counties using hand-marked paper ballots. By 2020, only 11 counties used touchscreen systems for early voting, while seven used them on election day. (see Figures 1 and 2)

Figure 1: Counties that used ballot marking devices for early voting in 2020. All other counties used hand-marked paper ballots.



SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

Figure 2: Counties that used ballot marking devices for election day voting in 2020. All other counties used hand-

marked paper ballots.

SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

The second change is that the General Assembly passed a law in 2015 (House Bill 836)⁵⁴ requiring county boards of elections to purchase systems that produce paper ballots. In response, the counties that still use touchscreen voting machines have switched to ballot marking devices (BMDs). The BMD system used in North Carolina is ExpressVote, produced by ES&S, which prints a review of the voter's choices and a QR code on a card about half the size of a standard sheet of paper. Voters then put the ballot into a tabulator.

There are at least three potential problems with the ExpressVote BMD. First, the constituent's official tabulated votes are not the choices printed on the ballot. Instead, the official vote is embedded in the ballot's QR code. A human being cannot read that code, so voters cannot review their official votes.⁵⁵

Second, voters are unlikely to notice errors made by BMDs. A University of Michigan study found that "voters missed over 93% of errors on printed ballots that they filled out using BMDs."⁵⁶ Even when voters complain about BMDs altering their choices, election officials have no way to tell if the BMD malfunctioned, if it was hacked, or if it was human error.⁵⁷

Third, BMD systems make it more difficult to audit election results and detect problems within the election system, as described in this

December 19, 2019, Fayetteville Observer article:

[U]sing a barcode ballot system makes it harder to audit election results — an essential election security feature for confirming the outcomes of the election.

If there is a problem with the BMD's software, intentional or not, and it isn't detected, state and local election officials won't know if there is a problem with the election outcome. This differs from paper ballot systems, in which voters mark paper ballots that are subsequently tabulated by scanning devices and the paper ballots themselves serve as a mechanism to ensure the outcome is correct, even if the voting system software has undetected issues.⁵⁸

The North Carolina branch of the NAACP filed a lawsuit against the State Board of Elections and several county boards in 2020 seeking to prevent the use of the ExpressVote BMD. The suit stated that ExpressVote is “an insecure, unreliable, and unverifiable machine that threatens the integrity of North Carolina’s elections.”⁵⁹ The lawsuit was not resolved before the 2020 election.

No known significant problems with ExpressVote were reported in the 2020 election in North Carolina. One relatively minor issue is that the paper used for BDM ballots is thinner than the cardstock used for hand-marked paper ballots, making it easier for voters to accidentally fold or roll a corner of the ballot, which increases the likelihood of a paper jam in tabulators.

In June 2020, one of the authors observed such a paper jam during the 11th Congressional District Republican second primary (runoff) election. Precinct officials had to open the tabulator (which contained voted ballots) to clear the jam. It took several minutes to clear the jam so voting could continue (see Figure 3).

Figure 3



during the June 23, runoff primary. The blue bin between the poll workers contained marked ballots. The photo was taken through an open door from outside the polling place, which was temporarily closed to voters.

Similar problems have been reported with BMDs in Pennsylvania and South Carolina.⁶⁰

A Troubled Switch to New Voting Technology

The process used to switch to new voting systems ahead of the 2020 election in North Carolina was troubling. After several months of testing, the State Board of Elections (SBE) prepared to accept several voting systems, including the Election Systems & Software's (ES&S) ExpressVote touchscreen ballot marking device. County election boards can only purchase voting systems that have been certified by the SBE.

Due to concerns about the security of BMDs, the five-member state board was divided on certifying ExpressVote. During a public comment

period at an SBE meeting on July 28, 2019, speaker after speaker rose to advocate for hand-marked paper ballots and against BMDs. The board voted 3-2 to delay certifying new systems until a new meeting three weeks later, giving the board time to reconsider certifying ExpressVote.

However, one of the board members who had voted to delay certification (David Black) reversed himself and asked for a new vote on the delay. That set the stage for a certification vote on August 1, 2019.

Fortunes reversed yet again with the sudden resignation of elections board chair Bob Cordle over an inappropriate joke (involving the sex life of a Welsh cow) that he told to a room full of hundreds of local election board officials during the July 28 meeting.⁶¹ Cordle, who resigned the next day, had favored certification. His resignation caused the board to split 2-2 at the August 1 meeting, preserving the delay and allowing the board to change the certification rules so that only systems with hand-marked paper ballots could be confirmed.

A few weeks later, the newly appointed SBE chair, Democrat Damon Circosta, voted with the state board's two Republican members to deny the county boards use of hand-marked paper ballots.⁶² The board's other two Democratic members voted to require hand-marked paper ballots. That vote allowed several counties to go ahead with plans to purchase ExpressVote.

The state board had a final opportunity to revisit the issue four months later. ES&S revealed that they would be able to provide only one-sixth of the expected ExpressVote 5.2.2.0 machines for county election boards that had ordered them. The ExpressVote 5.2.2.0 model was the BMD model the state board had tested and certified. ES&S then requested the state board to certify their newer and unverified ExpressVote 5.2.4.0 model without it going through the normal testing process.

Board member Stella Anderson noted a pattern of misinformation from ES&S during the certification and in the months before their request for

the SBE to certify the ExpressVote 5.2.4.0 model:

We must seriously examine the information ES&S has provided for our initial certification and their subsequent request for consideration of the modified system. If we do so, we can conclude nothing less than submission of inaccurate and misleading information at multiple points in the process. Following our certification of EVS 5.2.2.0 when the 'end-of-life' issues for the ExpressVote were brought to light, we were given assurances that they were prepared to fulfill NC contracts with the ExpressVote units we certified. They had, in fact, already told Tennessee and Michigan, but not North Carolina, that they no longer manufactured the ExpressVote HW 1.0 version. Then, in the 11th hour (only on November 15) we are told they only have available 1/6th of what NC counties expected to be able to purchase. This certainly appears to be part of a strategy by ES&S to tip the scales in favor of a quick approval process requiring no further testing or evaluation the 5.2.4.0 system. ...

Finally, we should also acknowledge that ES&S failed to accurately disclose, as required, the location of manufacturing for both the ExpressVote and DS200 units at the time of their initial submission of documents in 2017 (as part of Corporate Information, Certification Program Section 3.5.1.5, Item 7). ES&S' initial statement on the location of manufacturing facilities indicated Pivot International as their contract manufacturer located in Kansas. Only after we learned (in October) that these units are actually manufactured in the Philippines did they submit a corrected disclosure statement. This corrected disclosure statement was only transmitted to Executive Director Brinson Bell on November 11, 2019.⁶³

Despite those numerous problems, the SBE voted 3-2 to certify the ExpressVote 5.2.4.0 model on December 13, 2019,⁶⁴ and it was used in

several counties in the 2020 election.

That troubled rollout did nothing to promote confidence in either ES&S, their ExpressVote ballot marking device, or the judgment of the State Board of Elections.

Modems on Voting Equipment

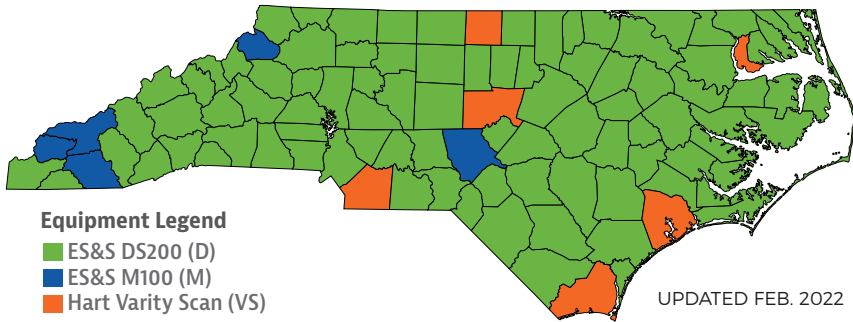
North Carolina law states that “no voting system used in any election in this State shall be connected to a network, and any feature allowing connection to a network shall be disabled.”⁶⁵ That part, “any feature allowing connection to a network shall be disabled,” means that it would be illegal for tabulators to connect in any way to an internet modem.

Any election system with network capacity, even those that do not directly connect with the internet, can be vulnerable to hacking and manipulation, as NBC News explained:

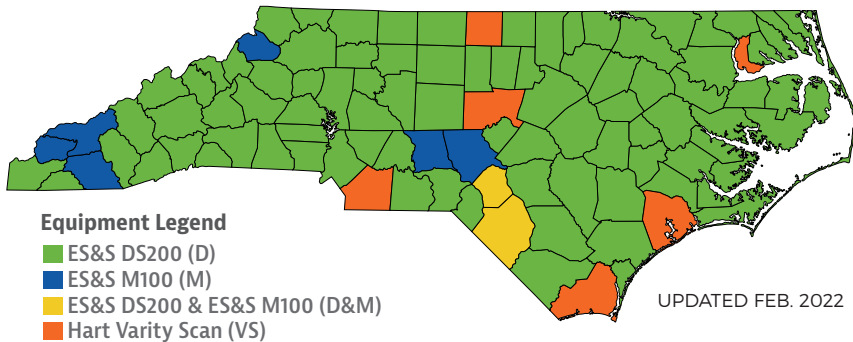
The largest manufacturer of voting machines, ES&S, told NBC News their systems are protected by firewalls and are not on the “public internet.” But both Skoglund and Andrew Appel, a Princeton computer science professor and expert on elections, said such firewalls can and have been breached...

*“Once a hacker starts talking to the voting machine through the modem, the hacker cannot just change these unofficial election results, they can hack the software in the voting machine and make it cheat in future elections,” he said.*⁶⁶

The most common tabulator used in the 2020 election in North Carolina was the ES&S DS200 (see Figures 4 and 5).

Figure 4: Tabulators used in early voting in 2020 by county.

SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

Figure 5: Tabulators used on election day in 2020 by county.

SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

There are roughly 33,000 ES&S DS200 tabulators with modems currently in use in the United States.⁶⁷ SBE Executive Director Karen Brinson Bell stated in a 2021 email to North Carolina Representative George Cleveland (R-Onslow) that:

modems ... are not present in any ES&S DS200 machine in North Carolina. We have confirmed this with ES&S. In fact, in North Carolina, there is not a single modem of any type in any DS200 tabulator,

according to ES&S. ...

This component is not resident on the DS200, but rather a separate module that is only installed in DS200s in those jurisdictions where the State permits their use.⁶⁸

Brinson Bell has resisted calls by legislators to inspect DS200 tabulators and other election systems used in the 2020 election, however, to confirm that they do not have modems or other means to connect to networks. She said that giving “unknown, unauthorized, or inexpert actors” access to election systems would increase the risk of damage, manipulation, or theft of those systems or the data housed in them.⁶⁹ Brinson Bell is essentially asking voters to trust her agency without any verification of her claims.

In a November 2021 meeting, Brinson Bell announced that modems would soon be removed from the ES&S M100, an older system still exclusively used in six counties.⁷⁰ Brinson Bell said that the modems had not been used in any elections.

Lessons Learned

There are several things election officials and legislators can do to increase public confidence in our voting systems. The remaining counties that still use ballot marking devices should transition to hand-marked paper ballots. Once that transition is complete, the SBE should certify only systems that use hand-marked paper ballots in the future.

Given ES&S’s behavior and lack of candor in their interactions with the SBE during the election system certification process, legislators and the public have legitimate concerns about the trustworthiness of the company’s assurances that none of the DS200 tabulators sent to North Carolina have modems. A random or systematic inspection of DS200s would help alleviate that concern.

Election officials likewise have legitimate concerns about nonexperts

opening and inspecting tabulators.

A reasonable compromise would be to have trained election officials inspect tabulators while legislators or their staff members observe. Another option would be to hire a laboratory accredited by the U.S. Election Assistance Commission to conduct inspections of DS200 tabulators. One such laboratory, Alabama-based Pro V&V, audited voting machines in Georgia after the 2020 election.⁷¹



"ZUCK BUCKS": The Private Funding of Election Administration

The U.S. Congress and the General Assembly provided the North Carolina State Board of Elections and county election boards with tens of millions of dollars in extra funding to help them cover the additional costs incurred during the coronavirus pandemic. Despite the additional government support, progressive leaning outside organizations claimed that election administrations throughout the country were underfunded, including North Carolina. These groups subsequently funneled millions of dollars of private funds into the state board and select county boards.

Chief among those donating to election administration in the state was the Center for Tech and Civic Life. This Democratic-run organization distributed millions of dollars' worth of funds given by Mark Zuckerberg, which became known as "Zuck Bucks." Counties that received that money were more likely to vote Democrat than those that did not, according to election data. In addition, turnout for Democrats increased in counties

that received those funds compared to the state average, while Republican turnout was unchanged. The data indicates that Zuck Bucks functioned as a Democratic turnout machine.

State and County Boards of Elections Secured Additional State and Federal Funding in 2020

In response to concerns about pandemic safety during the 2020 election, Congress and the General Assembly responded to concerns by providing millions of dollars to the North Carolina State Board of Elections (SBE) and county board of elections.

North Carolina House Bill 1169, the “Bipartisan Elections Act of 2020,” released nearly \$4.5 million to the election boards across the state.⁷² Those funds came in two sets, which were matched to secure \$22.5 million in federal election dollars. The bill included \$27 million of additional funding to county board of elections.

The first set of state funds, amounting to \$2,120,497, helped secure \$10,947,139 in election security grants as part of the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act. The bill granted \$424,000 to the SBE to establish an online portal for absentee ballot requests. The rest was distributed to county boards of elections to help them cover additional expenses caused by the COVID-19 pandemic. (See Appendix 1 for the bill’s required distribution of CARES Act funds to each county board of elections.)

The bill also directed the North Carolina Department of Commerce to distribute \$2,335,488 from a special revenue fund to the SBE to help cover election expenses, which was matched by the release of an additional \$11,677,441 in federal Help America Vote Act (HAVA) funds.

The SBE oversaw the reimbursement for eligible expenditures related to pandemic safety during the 2020 election. That support was also used to pay for things such as increased election security, high-speed ballot

tabulators, and software upgrades. Also, \$1,000,000 was set aside to “assist counties with the speed, accuracy, and transparency of the counties’ election, voter, and canvass data and processes.”⁷³

That \$27 million was in addition to the regular funds provided in the state budget and counties to their boards of elections. Just as importantly, that support was systematically provided to the state board of elections and all 100 county boards.

“Zuck Bucks” Enter the Election System

Not everyone was satisfied with the additional support elections officials in North Carolina and other states were receiving. Chief among those were Facebook (now Meta) founder Mark Zuckerberg and his wife, Priscilla Chan. They donated over \$400 million to some local election administrators during the 2020 election.⁷⁴

Most of Zuckerberg and Chan’s donations went to the Center for Tech and Civic Life (CTCL), which is a “center-left election reform advocacy group.” Its founders were former employees of the now dissolved New Organizing Institute (NOI),⁷⁵ a nonprofit that trained digital organizers for Democratic and progressive groups. “The Washington Post” described NOI as the “Democratic Party’s Hogwarts for digital wizardry.”⁷⁶ Zuckerberg and Chan were by far the organization’s largest donors in 2020.

Some other private contributions to elections boards included \$130,000 in free ads from Zuckerberg’s Facebook to recruit poll workers, and Anheuser-Busch provided hand sanitizer.⁷⁷ The Schwarzenegger Institute also provided about \$190,000 in funding.⁷⁸

Boards of elections received CTCL funding by applying for grants, though it is unclear how much communication it had with various county election boards before they submitted their requests.

CTCL distributed \$7,206,369 in North Carolina.⁷⁹ Almost half of that money went to the SBE. The rest was distributed among 31 of North Carolina’s 100 counties.

The per-capita size of the grants varied greatly. While most counties received less than \$1.00 per registered voter, arguably the two most progressive counties received much more. Orange County received \$2.60 per voter, while Durham Country received an eye-popping \$5.49 per voter. The other counties that received more than a dollar per registered voter were Hoke (\$1.48 per voter), Jones (\$1.12), Lee (\$1.04), Lenoir (\$1.56), Wake (\$1.26), and Warren (\$1.49). (See Appendix 2 for details of CTCL grants in North Carolina.)

The Relationship Between Zuck Bucks and Election Results

How does the private funding of election administration correspond with election results?

To answer that question, we compared election outcomes between the 31 counties that received grant money from CTCL and the 69 that did not. We looked at three relatively close statewide races in North Carolina: president, attorney general, and North Carolina Supreme Court chief justice.

In the presidential race, Donald Trump won in North Carolina with 50.7 percent of the vote compared to Joe Biden’s 49.3 percent. Trump also won in counties that did not spend CTCL funds 52.3 to 47.7 percent. However, Biden prevailed in counties that spent CTCL funds 51.9 to 48.1 percent. (See Table 1 for details.)

Table 1: Center for Tech and Civic Life funding and the 2020 presidential election results

Used CTCL funds?	Trump votes	Biden votes
Yes	1,014,048 (48.1%)	1,093,364 (51.9%)
No	1,744,727 (52.3%)	1,590,928 (47.7%)
Statewide Total	2,758,775 (50.7%)	2,684,292 (49.3%)

SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

The 2020 race for attorney general in North Carolina was even closer, and again there was a marked difference in results between the counties that spent money provided by CTCL and those that did not. Among counties that did not receive anything from the CTCL, Republican Jim O’Neill won 51.4 to 48.6 percent. Democratic incumbent Josh Stein won in counties that spent CTCL funds 52.6 to 47.4 percent, however. As seen in Table 2, that difference was enough for Stein to prevail statewide 50.1 to 49.9 percent.

Table 2: Center for Tech and Civic Life funding and the 2020 North Carolina attorney general election results

Used CTCL funds?	O’Neill	Stein
Yes	995,410 (47.4%)	1,103,227 (52.5%)
No	1,704,368 (51.4%)	1,610,173 (48.6%)
Statewide Total	2,699,778 (49.9%)	2,713,400 (50.1%)

SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

The results of the North Carolina Supreme Court chief justice race had a similar pattern. Republican Paul Newby won statewide in an extremely close race with Democrat Cheri Beasley, prevailing by only 401 out of 5,391,501 votes. Newby won by a relatively comfortable margin in counties that did not spend CTCL funds, 51.3 to 48.7 percent. As in the presidential race, the Democrat won in counties that did, with Beasley prevailing 52.1 to 47.9 percent (see Table 3).

Table 3: Center for Tech and Civic Life funding and the 2020 North Carolina Supreme Court chief justice election

Used CTCL funds?	Newby votes	Beasley votes
Yes	1,001,462 (47.9%)	1,087,690 (52.1%)
No	1,694,489 (51.3%)	1,607,860 (48.7%)
Statewide Total	2,695,951 (50.0%)	2,695,550 (50.0%)

SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

Further analysis finds that CTCL funding is not only related to more votes for Democrats, but counties which received support also saw more significant growth in Democratic voters from 2016 to 2020 than those that did not. In comparison, there was little to no greater increase in Republican votes in counties that received CTCL funds compared with those that did not.

For this analysis, we focused on the attorney general race in North Carolina, which was close in both 2016 and 2020. Overall, statewide turnout for the attorney general's race increased by 18.1 percent from 2016 to 2020, with an increase of 18.5 percent for the 2020 Republican candidate (Jim O'Neil) and 17.8% for the 2020 Democratic candidate (Josh Stein).

However, there was a marked partisan difference in turnout between the counties that received CTCL funds and those that did not (Table 4). Turnout increased more overall in counties that spent that money than those that did not, 19.6 to 17.2 percent. The change in Republican turnout between counties that spent CTCL grants (18.4 percent) and those that did not (18.5 percent) was virtually the same. The turnout for Democrat Josh Stein increased by 20.7 percent from 2016 to 2020 compared to an increase of only 15.7 percent in counties that did not spend CTCL money compared to ones that did. If Zuck Bucks helped increase turnout in the 2020 attorney general race, it only did so for Democrats.

Table 4: Center for Tech and Civic Life funding and voter turnout change for Democratic and Republican attorney general candidates in the 2016 and 2020 election

Used CTCL funds?	Republican vote increase	Democratic vote increase	Average by CTCL funding status
Yes	18.4%	20.7%	19.6%
No	18.5%	15.7%	17.2%
Average by Party	18.5%	17.8%	18.1%

SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

In raw numbers, Republican candidate O’Neil added 45,570 more votes than Democrat Josh Stein in the 69 counties that did not use CTCL support. In the 31 counties that spent those funds, Stein outgained O’Neil by 34,579. Stein’s margin of victory in the race was 13,622.

The Democratic candidate for president also gained proportionately more votes in the counties that spent CTCL money. Donald Trump beat Hillary Clinton in North Carolina by 49.8 percent to 46.2 percent in 2016. In 2020, he defeated Joe Biden in North Carolina by a closer margin, 49.9 percent to 48.6 percent

But those changes were not evenly distributed across the state (Table 5). Again, counties that used CTCL grants had a proportionately more significant increase in votes for the Democratic presidential candidate than the Republican candidate from 2016 to 2020. For example, while Trump’s received a 1.5 percentage increase in votes in counties that used CTCL funds, Biden’s was much larger at 4.8 percent.

Table 5: Center for Tech and Civic Life funding and turnout change for 2016 and 2020 Democrat and Republican presidential candidates

Used CTCL funds?	Republican vote increase	Democratic vote increase	Average by CTCL funding status
Yes	17.7%	25.5%	21.6%
No	16.2%	20.7%	18.3%
Average by Party	16.8%	22.6%	19.6%

SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

In raw numbers, Biden improved on Hilary Clinton's 2016 performance by 28,844 more votes than Trump improved in the 69 counties that did not use CTCL funds. In the 31 counties that did, Biden improved on the Democratic vote total by 69,998 votes more than Trump improved on his 2020 performance. Unlike the race for attorney general, CTCL funding is not associated with a change in the direction of increased support; Biden gained in both CTCL-funded counties and those that did not use CTCL funds. The Biden gains were much more pronounced in counties that used CTCL money, however.

There was no North Carolina Supreme Court chief justice race for comparison in 2016.

So, we know that CTCL funding was associated with proportionally more votes for Democrats than Republicans. We also know that it was associated with significant increases in voting for Democrats and little-to-no change in voting for Republicans. What is less clear is the causal relationship between CTCL support and more votes for Democrats. Did CTCL cause the comparatively large increase in Democratic turnout, was CTCL disproportionately targeted to areas likely to have a larger increase in votes for Democrats, or was there a combination of those factors?

Lessons Learned

An organization led by Democratic Party operatives funneled millions of dollars to election administration efforts in about a third of North Carolina's counties. Those counties disproportionately supported Democratic candidates and had a disproportionate increase in support for the Left compared to the counties that did not receive money from that organization. The evidence suggests partisan intent on the part of the Center for Tech and Civic Life, and the data demonstrates a partisan effect of the funds they sent to North Carolina election boards.

A free-speech component of election campaign donations allows people to support their preferred candidates with funding—however, it must be free of partisanship or the appearance of partisanship.

The North Carolina General Assembly should once again pass legislation banning the private funding of election administration, especially at the county level. The legislature passed such a ban in 2021, but Gov. Roy Cooper vetoed it.⁸⁰

During a debate in the 2021 legislative session over the proposed ban, some legislators objected to it. They claimed that private support was necessary to make up for lack of adequate funding from the state and county commissions. However, they offered no evidence that the 69 counties that rejected CTCL funds failed to conduct elections properly.

The best solution is to ban the private funding of election administration outright. If legislators insist on keeping private funding flowing, they must create a system in which such funds are equitably sent to all county boards of elections and ensure that there is no direct contact with those private funders. The legislature can make a formula like those they made to guide the State Board of Elections in distributing federal election funds in 2020.



VOTER REGISTRATION AND LIST MAINTENANCE

Maintaining accurate records of eligible voters helps reduce the likelihood of election fraud while protecting citizens' right to vote. It has been largely successful in that dual mission. Today, every state except North Dakota maintains a voter registration system.

In compliance with state and federal law, North Carolina has a system to remove registrations from the voter rolls of citizens who have reportedly moved or died. There is also a system for removing "inactive" voters who have dropped out of the system for at least four federal election cycles (about eight years). Despite that, North Carolina's voter rolls include hundreds of thousands of voter registrations of people who have died or moved out of their counties.

Registering to Vote in North Carolina

Registering to vote in North Carolina is easy, and there are multiple ways to do it.

The most common way to register is through the North Carolina Department of Motor Vehicles (DMV). When people come to DMV offices for services, such as getting a new driver's license or changing their address, workers also ask them if they wish to register to vote. North Carolinians can also register to vote or update their registrations online on the department's website if they have a driver's license or DMV-issued ID card number. Currently registered North Carolinians can update their voter registrations to, for example, change their party affiliation or address.

In addition, individuals can register to vote via mail, at the board of election offices and through voter registration drives.⁸¹

(See Table 6 for a listing of the sources of new and updated voter registrations in North Carolina in 2020. The "other" category includes sources such as the military and government agencies other than the DMV.)

Table 6: Sources of new and updated voter registrations in North Carolina in 2020

Source	Number	Percentage
Online (DMV)	578,429	27.9%
In-Person & Voter Registration Drives	555,775	26.8%
Mail-In	468,406	22.6%
DMV In-Person	353,573	17.0%
Other	120,499	5.8%
Total	2,076,682	100.0%

SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

Individuals must include an ID number on the registration card when they register to vote. The preferred ID is either an "NC driver's license or non-operators identification number." Those without a license or ID number may provide the last four digits of their Social Security numbers. If the person does not have any of those, he or she may attach an official document that includes their name and address. A list of acceptable documents for identification includes "a current utility bill, bank statement,

government check, paycheck, or other government document.”⁸²

The voter registration deadline is 25 days before Election Day. North Carolinians may also register to vote or update their registrations the same day during the early voting period before elections. (See the section titled “One-Stop, Early Voting and Same-Day Registration” for more information).

Only U.S. citizens may register to vote, and voter registration applicants must check the box on their voter registration forms confirming that they are citizens.⁸³ That requirement has not stopped noncitizens from getting on the rolls and voting, however.⁸⁴ County election officials have limited means for verifying citizenship status. The General Assembly passed a bill in the 2019 session requiring that the North Carolina court system send a list of people “disqualified from jury duty due to citizenship, residency, or criminal history” to county elections boards for the latter to check against voter registration records.⁸⁵ Gov. Roy Cooper vetoed the bill.⁸⁶

With the ease and variety of ways to register to vote in North Carolina, registration does not represent a significant barrier to voting.

Voter Registration Grows and Shifts

The number of North Carolinians registered to vote grew from 6,200,825 in 2010 to 7,361,219 by Election Day 2020 (November 3). That growth was not evenly distributed among the parties. As seen in Table 7 Republican registrations grew by 274,474 over that period, from 1,958,533 in 2010 to 2,233,007 in 2020. In comparison, Democratic registrations declined by 145,322 over that same period, from 2,769,372 in 2010 to 2,624,050 in 2020. The biggest change was in unaffiliated registrations, which grew by almost a million (989,117), from 1,463,666 in 2010 to 2,452,783.⁸⁷

Table 7: Changes in major party and unaffiliated voter registration, 2010-20. Registrations for minor parties (Constitution, Green, Libertarian) are excluded.

Registration	2010	2011	2012	2013	2014
Democratic	2,769,372	2,718,027	2,870,693	2,764,123	2,767,590
Republican	1,958,533	1,942,012	2,052,250	1,990,192	2,012,570
Unaffiliated	1,463,666	1,499,617	1,706,924	1,698,529	1,821,580

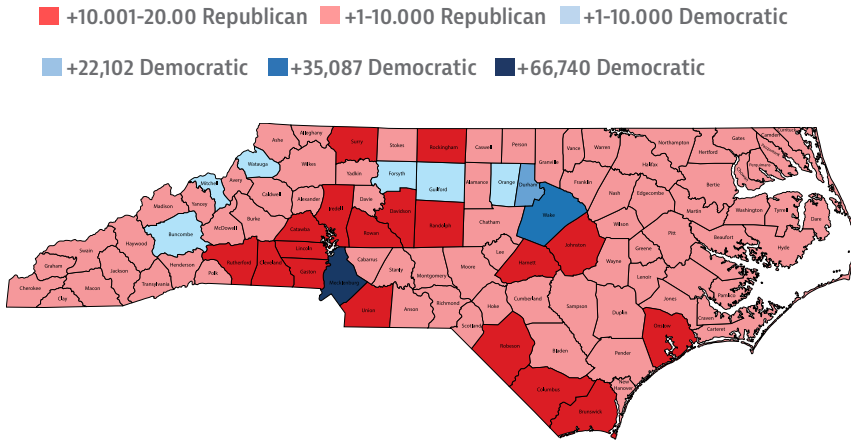
Table 7 (continued)

Registration	2015	2016	2017	2018	2019	2020
Democratic	2,628,220	2,733,188	2,643,176	2,686,129	2,491,476	2,624,050
Republican	1,951,040	2,086,942	2,059,168	2,110,824	2,032,509	2,233,007
Unaffiliated	1,797,770	2,065,687	2,073,637	2,251,117	2,212,653	2,452,783

DATA SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

The party changes were not distributed evenly across the state, either. Figure 6 shows that Republicans outgained Democrats in 91 of North Carolina's 100 counties. On the other hand, the counties with the three greatest net changes all favored Democrats: Mecklenburg (with Democrats besting Republicans by 66,740), Wake (35,087), and Durham (22,102). There were no counties where Republicans outgained Democrats by more than 20,000.⁸⁸

Figure 6: Net change in party registration by county, 2010-20. Data source: John Locke Foundation's Voter Registration Changes page



DATA SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

Regular List Maintenance

North Carolina law requires:

The State Board of Elections shall adopt a uniform program that makes a diligent effort not less than twice each year:

1. *To remove the names of ineligible voters from the official lists of eligible voters, and*
2. *To update the addresses and other necessary data of persons who remain on the official lists of eligible voters.*⁸⁹

The North Carolina State Board of Elections (SBE) reports that voter roll list maintenance is necessary because it “ensures ineligible voters are not included on poll books, reduces the possibility for poll worker error and decreases opportunities for fraud.”⁹⁰

County boards of elections maintain voter registration lists and report changes to those lists to the SBE, which is also authorized to conduct list maintenance.

The statute also specifies the conditions for which election officials may remove registrations:⁹¹

1. **Death:** The North Carolina Department of Health and Human Services provides the SBE death records every month to check against voter registration records.
2. **Felony conviction:** The SBE provides county boards a monthly list of the names, counties of residence, and addresses of those convicted of felonies in the previous month. Under North Carolina law, those convicted of felonies are not allowed to vote, but their franchise is restored once they have completed their sentences, including probation or parole. At time of publication, a legal challenge against the disenfranchisement of felons on probation or parole is working its way through the North Carolina court system. Felons on probation or parole will be able to vote in the 2022 election during the appeals process.⁹²
3. **Moved out of the county:** If someone registers to vote and indicates that he or she is currently registered elsewhere, the county board of elections will inform the elections board in the voter's prior jurisdiction. If a county board receives such a "notice of cancellation" from another North Carolina county or another state, "the county board shall remove a person from its list."⁹³

There are some problems with this system, however. For example, people who move out of a county do not always register to vote at their new locations nor do they inform officials in the new county of the change. County election boards also do not always receive a notice when someone registered to vote there has died, especially if that person died outside of North Carolina.

As a result, large numbers of people who have died or moved out of the county remain in the system.

Biennial List Maintenance

County boards are legally required to perform “no contact” list maintenance every two years to remove registrations of voters who have dropped out of the system.⁹⁴ County boards must complete that biennial list maintenance by April 15 of each odd-numbered year, although most counties complete it well before then.

Biennial list maintenance is a two-step process. The first step is the county board of elections sending a “confirmation notice” to a registered voter if they had not had any contact from that voter within the last two federal election cycles. Contact includes, among other things, acts such as voting, attempting to vote, submitting an absentee ballot request, signing a petition, or submitting a voter registration form. If the voter does not return an enclosed pre-addressed, postage-prepaid postcard within 30 days, or does not have any other contact with the board of elections during that time, then the county board marks the voter’s record as inactive.

Any voter on the inactive list may still vote. If they do so or have any other contact with their county board, their registrations revert to active status.

The county board removes inactive registrations if the board has no contact from the voter for an additional two federal election cycles. The last round of biennial list maintenance before the 2020 elections was in early 2019, and registrations inactive since 2015 were removed. That round of biennial list maintenance, which some critics improperly called a “voter purge,”⁹⁵ resulted in county boards removing 563,627 registrations from their inactive voter lists.⁹⁶ The county boards added other registrations to the inactive list at about the same time.

Table 8 shows that voter registrations are improbably high proportion of the estimated citizen voting age population in North Carolina and inactive registrations fluctuate as a percentage of all registrations.⁹⁷

Table 8: Estimated citizen voting age population (CVAP), active voter registration, and inactive voter registration data for 2016, 2018, and 2020 election years. Data source: United States Election Assistance Commission

Year	CVAP Total	Total Registrations	Total Registrations % of CVAP	Active Registrations	Active Registrations % of total	Inactive Registrations	Inactive Registrations % of total
2020	7,729,644	7,372,608	95.4	6,607,121	89.6	765,487	10.4
2018	7,509,879	7,095,209	94.5	5,898,244	83.1	1,196,965	16.9
2016	7,296,335	6,924,469	94.9	5,930,252	85.6	994,217	14.4

Dead Voters and Former Residents Clog North Carolina Voter Rolls

Despite list maintenance, North Carolina's voter rolls are clogged with people who have died or moved out of the county where they are registered to vote, as county election boards are usually not informed. Even when election officials receive data indicating that someone is no longer a legal voter in the county, they sometimes miss them in roll updates because the data does not always precisely match. For example, the data may have typos or name mismatches, such as "Bob" instead of "Robert."

In one example, a 2012 Voter Integrity Project report found 30,000 dead people on the state's voter rolls, based on data from the North Carolina Division of Public Health. That number did not include people who died outside of North Carolina.⁹⁸

The state's inability to remove dead voters and former residents from voter rolls resulted in 1.2 million inactive voter registrations in 2019. That large number of inactive voter registrations triggered an April 2020 lawsuit from Judicial Watch, a national nonprofit organization focused on integrity in government. It alleged that voter rolls in North Carolina,

especially in Guilford and Mecklenburg counties, were “too high to be compatible with compliance with the NVRA” (National Voter Registration Act of 1993).⁹⁹ Judicial Watch agreed to settle the lawsuit after the number of inactive voters in North Carolina dropped to about 765,000 in 2021.¹⁰⁰

In short, the list-maintenance practices included in this section are insufficient for maintaining clean voter rolls.

State law authorizes the SBE to use other methods to remove dead or moved voters, including data from federal agencies and “entering into data sharing agreements with other states to cross-check information on voter registration and voting records.”¹⁰¹

North Carolina participated in the Interstate Crosscheck program hosted by the Kansas Secretary of State, which shared data from dozens of states to help members clean their voter rolls.¹⁰² That program was suspended in 2017 after a Homeland Security audit found security concerns with how it handled private data. It was then shut down as part of a lawsuit settlement in 2019.¹⁰³ North Carolina is not currently involved in any data-sharing program to help clean its voter rolls.

With Interstate Crosscheck out of commission, there is only one such data-sharing program currently available, the Electronic Registration Information Center (ERIC).¹⁰⁴ There are some problems with ERIC, however. It requires funds to join, and users must comply with membership requirements. It also is opaque with how it handles data and the personnel involved in the data processing. While those issues should be corrected, the benefits of joining ERIC outweigh the problems.

The North Carolina General Assembly approved funding in its 2021 budget for the SBE to join ERIC for one year. It provides an opportunity to test ERIC’s efficacy and determine whether the program’s deficiencies outweigh the benefits.

Lessons Learned

The State Board of Elections and county boards must make a full effort to clean the state's voter rolls while complying with the limits of the National Voter Registration Act of 1993 and assuring that they do not unduly remove individuals from voter rolls. One way to accomplish that is to replicate the work of groups like the Voter Integrity Project, which diligently cross-checks data from current sources to find dead or moved voters and pull publicly available data from other states. Boards should also check registration addresses against tax records and other lists to ensure they are not commercial properties or vacant lots.

Election officials will get the biggest bang for their buck by participating in an interstate data-sharing program to help identify and remove registrations of people who have permanently moved out of North Carolina or died outside the state. Right now, ERIC is the only such program available. If another viable interstate data-sharing program emerges in the near future, North Carolina should join it.

The General Assembly should also again pass a bill requiring the North Carolina court system to share data with election boards on people disqualified from jury duty because they are not citizens, and the governor should sign it.

A close-up photograph of a person's hand placing a white envelope into a white ballot box. The envelope is marked with 'OFFICIAL ELECTION MAIL' and a red banner that reads 'OFFICIAL BALLOT ENCLOSED'. It also features a small American flag and a 'From' address line. The ballot box has a sign that says 'DROP BALLOT HERE' and 'NO POSTAGE REQUIRED'. A warning sign is partially visible at the bottom right.

THE SURGE OF ABSENTEE-BY-MAIL VOTING

The 2020 election saw a surge in absentee-by-mail (mail)¹⁰⁵ ballots, in response to COVID-19 concerns. Because North Carolina is a “no excuse” mail voting state, no laws or regulations were altered to accommodate more mail voting. The General Assembly did temporarily reduce the witness requirement from two to one to reduce the amount of human contact needed.

That surge came on the heels of the most significant known case of alleged mail ballot fraud in North Carolina history in 2018. While there is no evidence of any similarly significant cases of mail ballot fraud in 2020, there were still problems. Only about 68% of mail ballots sent to voters were returned and accepted, with the rest either unaccounted for, not counted or spoiled. There were also problems caused by civilian mail ballots returned after election day.

Absentee-by-Mail Voting in North Carolina

North Carolina is a “no excuse” absentee voting state, meaning that any registered voter can request and mail ballot. North Carolina was also the first state to transmit absentee ballots to voters in 2020, sending the first batch out on September 4.¹⁰⁶

Absentee voting for most voters in North Carolina is a three-step process.¹⁰⁷ First, registered voters request absentee ballots by using either an online portal or submitting a request form to their county board of elections. Applicants must include their birth dates on the form. They must also submit either their North Carolina ID (usually driver’s license) or the last four digits of their Social Security number.

Once an applicant receives it, they are instructed to “mark your ballot in the presence of a notary public or two witnesses.”¹⁰⁸ This was reduced to one witness for the 2020 election due to Covid-19 concerns, (See “New Rules: Election Law Changes Between the 2018 and 2020 Elections” for details.) While the witnesses must watch the voter mark the ballot, they must not see the actual choices made. North Carolina law states: “The persons in whose presence the ballot is marked shall at all times respect the secrecy of the ballot and the privacy of the absentee voter.”¹⁰⁹ Once the ballot is complete, the voter seals it in the appropriate return envelope and completes the form on the outside. The voter and witness then sign the envelope. If anyone assists the voter in marking the ballot, that person also signs it.

The ballot is then submitted to the county board of elections. Ballots can be submitted either by mail or in person at the county board of elections office or an early voting site. Under North Carolina law, only the voter or a near relative or legal guardian can submit the ballot.¹¹⁰

(A 2022 court ruling allows a disabled voter to designate anyone to return their ballot.¹¹¹ Any nonrelative voter must “immediately take the sealed envelope containing [the] ballot to the closest U.S. mail depository or mailbox.”¹¹²)

Absentee Voting Surged in 2020

The 2020 general election saw a surge in absentee voting, growing from 4 percent of all ballots in 2016 to 18 percent in 2020 (see Table 9).

Table 9: Proportion of votes by ballot type in presidential elections 2008-20. Data source: North Carolina State Board of Elections

Election	Absentee By Mail	One-Stop Early Voting	Election Day In-Person	Provisional
2020	18%	65%	16%	<1%
2016	4%	62%	33%	<1%
2012	5%	56%	38%	<1%
2008	5%	55.5%	38.5%	<1%

It was driven by fears of the coronavirus and a campaign among officials and in the media. Headlines promoting mail voting included lines saying it would make “the 2020 election safer”¹¹³ or it is the “best way to save the 2020 election from coronavirus.”¹¹⁴

Officials still managed to overstate the demand for mail ballots in North Carolina. In an April 22, 2020, memo to the North Carolina General Assembly, State Board of Elections (SBE) Executive Director Karen Brinson Bell stated that they expected “a projected 30% to 40% voter absentee-by-mail participation rate (compared to the normal 4% to 5% rate).”¹¹⁵ She did not share a source for that projection. The actual proportion of ballots submitted by mail in North Carolina was 18 percent.

Benefits and Risks of Absentee Voting in 2020

Voting by mail can make the process more convenient for some voters, particularly the elderly or people with mobility problems. It is also convenient for those living abroad or away from their home district, like

active-duty service members. Under federal law, military members and Americans living overseas may vote in North Carolina elections if their last legal residence was in the state.^{116, 117}

During the 2020 election, voting by mail was touted as a way of protecting Americans from the coronavirus while assuring their ability to exercise their constitutional right. Two researchers went as far as to call it a “critical infrastructure to assure a safe election in a pandemic.”¹¹⁸

Nevertheless, there are risks involved with voting by mail. A group of election integrity experts noted that “absentee-ballot voting is vulnerable to intimidation, fraud and chaos.”¹¹⁹

Since mail ballots leave the security of a polling place, absentee voters are more vulnerable to fraud and intimidation. At their core, concerns over fraud involve ballot trafficking, in which political operatives take possession and then alter or discard selected ballots.

This type of trafficking can also involve a more insidious form of fraud in which operatives create a system of ballot mills. In such a system, citizens no longer have a voice in the election process.

An example of that was given in the SBE hearing on alleged absentee ballot fraud in the 2018 9th Congressional District race. Voter Precious Hall testified that she received an absentee ballot in the mail even though she did not recall requesting one. After she had received it, two people paid by a group called the Bladen County Improvement Association came to her home and took possession of her completed ballot, which is illegal in this state.¹²⁰ This situation is a preview of what could happen if North Carolina adopted a similar system to California, which has automatic voter registration, all-mail voting, and legal ballot trafficking.¹²¹

Steven F. Huefner, a professor at the Moritz College of Law at the Ohio State University, noted how absentee voters could be coerced or unduly influenced by family members, friends, or political operatives.¹²² That situation is much less likely to occur with in-person voting (see “Illegal Voter ‘Assistance’: Anson County” in the “Known Problems with Voting

and Counting Ballots” section of this report).

Several ballot trafficking schemes in North Carolina have been brought to light over the first two decades of the 21st century. Those scandals culminated in the SBE overturning the results of the 2018 9th Congressional race due to alleged ballot trafficking.^{123, 124}

Spoiled, Not Counted, and Missing Ballots

Another problem with mail ballots is that a substantial portion of them rejected for a variety of reasons. According to a survey by the U.S. Election Assistance Commission, these reasons included that the ballots “were not returned by voters, spoiled, returned as undeliverable, or otherwise unable to be tracked.”¹²⁵ According to SBE data, 11.3 percent of all mail ballots sent to voters in the 2020 general election were unaccounted for by the time the election was certified.¹²⁶ See Table 10 for the final status of all North Carolina absentee ballots in the 2020 general election.

Table 10: Final status of all North Carolina mail ballots in the 2020 general election. Data source: North Carolina State Board of Elections

Status	Number	Percentage
Accepted	993,648	67.33%
Accepted – Cured	7,947	0.54%
Assistant Info Incomplete	8	>0.01%
Conflict	3	>0.01%
Duplicate	563	0.04%
E-Transmission Failure	5	>0.01%
No Time For Cure – Contacted	58	>0.01%
Not Properly Notarized	10	>0.01%
Pending	1	>0.01%
Pending Cure	5,090	0.34%
Returned After Deadline	1,084	0.07%
Returned Undeliverable	2,837	0.19%

Table 10 (continued)

Status	Number	Percentage
Signature Different	29	>0.01%
Spoiled	276,947	18.77%
Witness Info Incomplete	5,938	0.40%
No Record	181,531	12.30%
Total Ballots	1,475,699	100.00%

Only “Accepted” and “Accepted – Cured” ballots were counted. “Spoiled” ballots are those that have been marred (torn or defaced). If this happens, voters are sent another or are notified that it has been “spoiled.” A mail ballot is also marked spoiled in the system if someone who has been sent a mail ballot decides to vote in person¹²⁷ (which is not illegal if the voter does not also try to submit the mail ballot).

Table 10 can be simplified to just four categories to help clarify the status of mail ballots. See Table 11.

Table 11: Simplified final status of all North Carolina mail ballots in the 2020 general election. Data source: North Carolina State Board of Elections

Status	Number	Percentage
Returned – Counted	1,001,595	67.9%
Returned – Not Counted	15,626	1.1%
Spoiled	276,947	18.8%
No Record	181,531	12.3%
Total	1,475,699	100.0%

Unreturned ballots may be less of a concern in North Carolina than in other states because election workers have a system to track them. The SBE noted in an October 15, 2020, media release that all absentee ballots are marked as such so they can be removed if necessary:

For all absentee ballots, including one-stop ballots, election workers write an identifying number on your ballot. This is a

special number assigned to each ballot and voter as required by law.

This number allows the ballot to be retrieved if necessary based on a voter challenge, such as if the voter dies before Election Day or double votes. It can also be used to retrieve ballots in the event of a successful election protest, such as if several voters are given the wrong ballot style and the margin for a contest is less than that number of voters.¹²⁸

It also means that mail and early ballots in North Carolina are not necessarily secret from election officials.

There were also complaints that the rejection rate of mail ballots from blacks was about three times higher than those from whites. That rate was consistent across the state and both in rural and urban areas.¹²⁹ That difference in rejection rates by race is also consistent with earlier elections. Despite the disparity, there is no evidence that election officials targeted the ballots of black voters for rejection.¹³⁰

Mail Ballots Returned After Election Day

There were several other structural or emerging problems with mail voting during the 2020 general election.

North Carolina law requires that the county board of elections receive ballots “not later than 5:00 p.m. on the day of the statewide primary or general election or county bond election.”¹³¹ There are exceptions to that rule. Federal law requires military and overseas ballots to be accepted until the day before the county canvas (when ballots are officially counted) if postmarked by election day. The canvas takes place ten days after the election.

Also, any ballot is accepted up to three days after election day if it has a postmark indicating that it was sent by election day. That three-day grace period was extended to nine days for the 2020 election due to a

lawsuit settlement. (See “Sue ‘til Blue: Lawsuits that Affected the 2020 Election” for details.)

The dependence on postmarks rather than the date returned to the board of elections created confusion and conflict.

To deal with the reoccurring problems of ballots missing postmarks, the SBE had to instruct county election boards to “conduct research with the USPS or commercial carrier to determine the date it was in the custody of USPS or the commercial carrier.”¹³² There was at least one incident in which a postal worker stamped the wrong date on a group of ballots, requiring the county board of elections to vote to accept those ballots in a meeting a week after election day.¹³³

Even with the deadline extension to nine days after election day, 1,084 mail ballots were not counted due to being “returned after deadline.” Many were ballots that did not have a postmark or other indicator of when they were sent.¹³⁴

The confusion and opportunity for mischief caused by the post-election day deadline for mail ballots helped fuel protests in the close reelection loss of North Carolina Chief Justice Cheri Beasley to Justice Paul Newby. Many of Beasley’s protests were attempts to get county elections boards to count mail ballots that had been returned without a postmark.¹³⁵

In one example, Beasley’s lawyers argued that a ballot received by the Cleveland County Board of Elections on November 5, two days after election day, should be counted, arguing:

[A] ballot received by November 5 must have been placed in the mail by November 3, and that [the voter’s] ballot must have been placed in the mail stream, if not formally postmarked, by November 3. ¹³⁶

The board dismissed Beasley’s protest by a majority vote.

Lessons Learned

Despite the convenience that voting by mail may offer, it should not be the go-to option for most. Ballots that leave the confines of polling places are inherently less secure than are those that do not. Even if we accept that 2020 presented exceptional circumstances due to Covid-19, election officials should not promote mail voting as a general practice.

The General Assembly should require that mail ballots be received by election day. Such a requirement is the norm in the United States. According to the nonpartisan National Conference of State Legislatures, 32 states, including all-mail states like Oregon and Colorado, require election officials to receive absentee ballots on or before election day.¹³⁷

Two things should accompany the change in deadline. First, the SBE and local election officials must inform absentee-by-mail voters of the election-day deadline through public information campaigns and by conspicuously noting the deadline on absentee ballot envelopes. Election boards have experience providing such notices to voters.

Second, the General Assembly should move the statutory deadline for requesting a mail ballot from the current “not later than 5:00 p.m. on the Tuesday before the election”¹³⁸ to “not later than 5:00 p.m. on the second Thursday before the election. That is a three-day shift in the number of weekdays before election day to match the three-weekday change in the due date for absentee ballots.” That would give voters adequate time to request, receive, and return their mail ballot by election day.





**EARLY VOTING
TODAY**

*Votación Anticipada
Hoy*

**ONE-STOP EARLY VOTING AND
SAME-DAY REGISTRATION**

In 2020, as in other recent elections, most North Carolinians voted in person before election day at one of the hundreds of one-stop absentee voting locations across the state. That form of in-person voting remained the most popular way cast a ballot in North Carolina despite fears that it would lead to a surge in Covid-19 cases.

Over a hundred thousand people took advantage of same-day voter registration during early voting period to either update their information or register and cast their ballot the first time in North Carolina. The difference in 2020 was that Republicans made a plurality of same-day registrations, when in previous elections Democratic registrations led the field.

There are structural reforms the North Carolina General Assembly can

enact to make one-stop voting and same-day registration more secure. They include requiring a partisan balance of early voting site staff by statute and requiring that boards of elections confirm the addresses of same-day registrants before counting their ballots.

One-Stop Early Voting

Forty-five states and the District of Columbia offer some form of early in-person voting.¹³⁹ As prescribed by North Carolina law, the early (officially called “one-stop” or “one-stop absentee”) voting period during the 2020 election ran from the third Thursday before election day (October 15) to the Saturday before election day (October 31).¹⁴⁰

All counties accept one-stop ballots at their board of elections office or an alternative location near that office during the early voting period. In addition, county boards of elections may, by unanimous vote, open additional locations in other parts of the county. If the county board cannot agree on a set of sites, the State Board of Elections (SBE) chooses from the competing lists.

To protect all voters’ rights to equal access to early ballot, all casting locations other than the county board of elections office must be open on the same days and for the same hours. There are two exceptions to that rule: Dare County, which can have a site with alternative hours on Ocracoke Island, and Beaufort County, which is split in half by the Pamlico River and can have two locations with alternative hours.¹⁴¹

All one-stop location workers must be either full-time county board of elections workers or temporary workers “whom the board has given training equivalent to that given a full-time employee.”¹⁴² Unlike election day polling locations, there is no statutory requirement that one-stop workers come from both major parties. However, the statute requires that early voting locations have provisions for party-appointed observers “equivalent” to those for election day locations.

According to data from the North Carolina State Board of Elections

(SBE), there were 3,628,663 one-stop ballots counted in the 2020 general election. That was nearly two-thirds of all ballots counted in that election. Another 6,212 one-stop ballots were not counted for various reasons. That makes for an acceptance rate of 99.8 percent. See Table 12 for details.

Table 12: Status of one-stop ballots submitted in the 2020 general election

Status	Number
Accepted – Counted	3,628,663
Canceled – Not Counted	4,509
Conflict – Not Counted	9
Duplicate – Not Counted	69
Not Voted – Not Counted	738
Wrong Voter – Not Counted	887
Total	3,634,875

SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

A Few More One-Stop Sites and Many More Early Voting Hours

As part of a July 17 emergency order, SBE Executive Director Karen Brinson Bell ordered each county to maintain a minimum number of one-stop voting locations:

Each county board of elections shall open at least one one-stop early voting site per 20,000 registered voters in the county, as reflected in the voter registration records as of July 11, 2020. A county board of elections may apply to the Executive Director for a waiver of the requirement in this paragraph if its proposed plan is sufficient to serve the voting population, maintain social distancing and reduce the likelihood of long lines.¹⁴³

The order had a minimal effect on the number of one-stop locations

(Table 13). The number of locations had already significantly expanded, from 365 in 2012 to 451 in 2016. It grew by only 20 to 471 in 2020.¹⁴⁴ What did increase significantly was the total number of hours those sites were open — from less than 43,000 hours of operation in 2016 to over 77,000 in 2020.

Table 13: Number of one-stop early voting locations and hours of operation in the 2008, 2012, 2016, and 2020 elections

Election Year	2008	2012	2016	2020
Number of Sites	368	365	451	471
Total Hours	37,243.75	34,889.50	42,688.25	77,011.00

SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

While the July 17 emergency order called for some expanded hours, the more likely cause for the significant increase was that county boards of elections had unusually large budgets in 2020. That allowed them to pay more for location rental and worker salaries. The money was provided through federal and state grants. House Bill 1169, the “Bipartisan Elections Act of 2020,” released nearly \$27 million to election boards across the state.¹⁴⁵

Same-Day Registration

North Carolina enacted same-day registration in 2007 and is one of the 21 states that allowed some form of same-day registration (SDR) in the 2020 election.¹⁴⁶ Citizens who do not register to vote before the registration deadline (25 days before election day) and who are otherwise eligible to vote in North Carolina may register and vote on the same day during the early voting period. There is no SDR on election day in North Carolina.

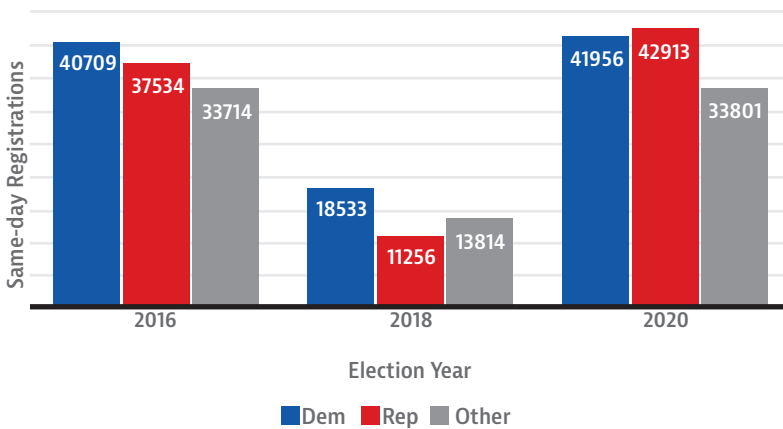
Registered voters may use SDR to change information on their registrations, such as their addresses if they have moved. They may also use it

to change their party affiliations, except that party affiliation cannot be altered during early voting in primaries or second primaries.¹⁴⁷

Democrats tend to be more supportive of SDR than Republicans. A 2020 poll found that 78 percent of Democrats favor it, while only 35 percent of Republicans do.¹⁴⁸

To see if facts on the ground reflect that difference, we obtained SDR by party data from the SBE. As seen in Figure 8 there were 111,957 same-day registrations in 2016, 43,603 in the 2018 midterm election, and 118,670 in 2020. Those totals include same-day registrations in primaries, second primaries, and general elections.

Figure 7: Same-day registrations by party in 2016, 2018, and 2020



SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

More Democrats used SDR than Republicans in 2016, but their share of all same-day registrations (36.4 percent) was only slightly higher than the Republican's share of 33.5 percent. The Democrats did much better in the 2018 midterm election, having 42.5 percent of same-day registrations to Republicans' 25.8 percent. Parties reversed positions in 2020, however, with 36.2 percent of same-day registrations going to Republicans and 35.4 percent to Democrats.

Unconfirmed Same-Day Registration Addresses

People seeking same-day registration must present election officials with documentation showing their names and addresses. This documentation is usually a driver's license but can also be some other form of government-issued photo ID or a copy of a recent utility bill, bank statement, government check, paycheck stub, or other government document showing the voter's name and address. Voters with a North Carolina college ID can register if they also have documentation indicating that they live on campus.¹⁴⁹

Recognizing that some of those documents could be outdated, forged, or inaccurate, county election boards must also verify the registrant's address by sending a verification mailer (the voter registration card) to the address on the registration. What happens if the county board cannot verify the address? Surprisingly little, as can be seen from instructions to same-day registrants from the SBE:

*In the event the county board of elections cannot verify your address, your voter registration application will be denied and your absentee vote may be subject to challenge. **If challenged,** you will receive an appropriate notice. The notice will give you instructions on how to appeal the challenge and you will be asked to present additional documentation that verifies your name and address. (Emphasis added.)*¹⁵⁰

That sets up a concerning situation in which a ballot from someone who is not legally registered to vote in North Carolina will be counted unless someone challenges that ballot. The John Locke Foundation made a public records request to the SBE on May 27, 2022, asking for the number of same-day registrations in the 2020 general election in which registrants' addresses were not confirmed. As of the date of publication in October 2022, the SBE has not provided that information.

Lessons Learned

One-stop voting and same-day registration provide convenience for some voters but come with disadvantages.

The General Assembly should examine the practicality of requiring a partisan balance for staff whenever possible at one-stop voting locations by statute. There is already a requirement for staffing election officials from both parties whenever possible at election day polling places.

The 25-day before election day deadline for regular voter registration is both to help establish legal residency for voting and give county election officials sufficient time to confirm the information on the registration forms and submitted documents. Considering the limited time available to verify the information in same-day registrations, especially those submitted just a few days before election day, ballots should be made provisional until election officials confirm the information is correct, including address verification.

Making all same-day registration provisional would increase the number ballots county election boards must review. If that would place too great an administrative burden on county election boards, provisional status could be limited to all ballots associated with new same-day registrations submitted in the last week before election day. All ballots related to same-day registrations in which the address is not verified should be provisional. Those ballots would be accepted and counted only if the address is confirmed by the time of the county canvas, ten days after election day.

A photograph showing a line of people at a voting station. In the foreground, the backs of several people are visible as they wait. In the background, three white voting booths on metal stands are visible, each with a sign that says "VOTE" and a small American flag. A large American flag is mounted on the wall behind the booths. The floor is made of light-colored wooden planks.

PROVISIONAL BALLOTS

Provisional ballots occupy a middle ground between legal and illegal ballots. They are a stopgap measure used when there are questions about whether or not someone is legally eligible to vote and are set aside to give county election officials time to research the person's eligibility.

County election officials review all outstanding provisional ballots as part of their canvas (final count) procedures, and “no election results are finalized until the determination of the statuses of the provisional ballots has been made.”¹⁵¹

Reasons for Voting Provisionally

According to the North Carolina State Board of Elections, there are ten reasons that someone may have voted provisionally in 2020:

- ▶ **No Record of Registration** — A voter's record of registration cannot be found in the voter registration list at the time the voter presents to vote at the voting place.
- ▶ **Unreported Move** — A voter provides an address different from the voter's registered address, and the voter indicates that the move to the new address occurred 30 or more days before Election Day.
- ▶ **Previously Removed** — A voter was previously registered in the county but the registration was canceled. A voter's registration may be canceled for a number of reasons (moved within state; moved to another state; felony conviction; removed due to list maintenance; successful voter challenge; deceased, etc.).
- ▶ **No Acceptable ID** — A voter does not present acceptable identification under the Help America Vote Act (HAVA).
- ▶ **Unrecognized Address** — An election official is unable to locate a voter's address in the county's street lookup files.
- ▶ **Incorrect Precinct** — This provisional voting reason is used when a voter requests to vote at a polling place on Election Day that is not the voter's proper precinct. The voter's proper precinct is the precinct assigned to the voter based on residential address 30 or more days before Election Day.
- ▶ **Incorrect Party** — During a partisan primary, a voter insists on voting a ballot for a political party that the voter is not affiliated with.
- ▶ **Voter Already Voted** — A voter's record indicates that the voter has already cast a ballot in the election.
- ▶ **Jurisdiction Dispute** — A voter presents to vote and has no eligible ballot style or the voter requests to vote in a contest not in the voter's assigned voting district based on his or her legal voting residence.

- **Voted During Extended Hours** — *The hours for voting are extended by the State Board of Elections or a court order. Voters who cast a ballot during extended hours must vote a provisional ballot.*¹⁵²

The ID provision is for people who wish to register and vote (same-day registration) during early voting. Election offices will count their ballot if they later present an acceptable ID for registration.

Provisional Ballots by the Numbers

There were 40,767 provisional ballots in the 2020 general election in North Carolina.¹⁵³ That amount was a significant decline from the 51,192 in 2012 and 60,643 in 2016.

That decline is not necessarily a good thing. It could represent election workers letting people who should vote provisionally cast a regular ballot. There may also be instances where election workers turn away people who should be given an opportunity to cast a provisional ballot.

While there are ten reasons for voting provisionally, four of them account for a vast majority of such ballots. The most common reason by far is no record of someone's registration, which accounted for over 50 percent in 2020, followed by a voter being previously removed from the rolls, voting in the wrong precinct, and no longer living at the address where he or she is registered. See Table 14 for details.

Table 14: 2020 general election provisional ballots approved, not counted, or partially counted by reasons for provisional ballot status.

Reason for Provisional Ballot	Approved	Not Counted	Partial	Total
ID Not Provided	207	530	6	743
Incorrect Party	5	6	4	15
Incorrect Precinct	1,804	167	1,915	3,886
Jurisdiction Dispute	165	209	42	416
No Record of Registration	4,032	20,247	372	24,651
Previously Removed	3,132	2,020	135	5,287
Unrecognized Address (Geocode Issue)	593	363	52	1,008
Unreported Move	3,178	427	237	3,842
Voted During Extended Hours	4	1	0	5
Voter Already Voted	500	396	18	914
Total	13,620	24,366	2,781	40,767

SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

County boards of elections review provisional ballots before the county canvass ten days after election day. During those meetings, the county boards will either accept, not accept (reject), or partially accept provisional ballots. If a ballot is partially accepted, that usually means the constituent can vote in some races but not in others because he or she is not living in one or more of districts on the ballot.

There is a wide variation in the approval rate of provisional ballots. Only 17.9 percent of “no record of registration” provisional ballots were

approved or partially counted, as were 28.7 percent of “ID not provided” (same day registrations). On the other extreme, 95.7 percent of “incorrect precinct” provisional ballots were approved (46.4 percent) or partially counted (49.3 percent). The reasoning behind counting some ballots and not others come down to what information election officials can gather and judgment calls by the county election boards.

In the 2020 presidential election, 8,959 votes from provisional ballots went to Donald Trump while 6,787 went to Joe Biden.¹⁵⁴

A Curious Case in Wilson County

Below is the case-study a provisional ballot case for a single-family, three-bedroom, 1,788-square-foot residence in Wilson County.

According to publicly available records, there were 11 provisional ballots associated with that house in the 2020 general election, in addition to two other voters associated with that address. All were registered to vote on that day but were marked provisional for “No Record of Registration.” None of those ballots were counted. All 11 were registered to vote on that day, however. Ten of those registrations are still active as of July 2022, while one has been moved to the inactive list.

Ten are male, while one is officially listed as unidentified but with a male name. Eight are Democrats, two are Republicans, and one is unaffiliated. Seven are white, while four are black. None identify as Hispanic.

A search of their voter records using the North Carolina State Board of Elections online voter search tool found no record that any of them have ever voted in North Carolina before or since their registration in Wilson County in 2020.¹⁵⁵

Another person registered at that address is an unaffiliated female. She registered in April 2016 but never voted and is currently on the inactive list.

The final person registered at that address is a Democratic male. He had

previously voted in Cumberland and Johnston counties before registering in Wilson in September 2020. His vote counted in the 2020 general election, with that house listed as his address. He is still listed as an active voter in Wilson County but did not vote in the 2022 primary. However, on April 12, 2022, someone registered to vote in Johnson County under the same first, middle, and last names.

More details of the 13 registrations associated with the house in Wilson, with names redacted can be found in Table 15.

Table 15: Registrations at a house in Wilson, North Carolina as of the summer of 2022

Name	Registration Date	Status	Age	Elections Voted & Notes
Person 1	11-3-2020	Active	53	2020 Provisional—not counted (not registered)
Person 2	11-3-2020	Active	28	2020 Provisional—not counted (not registered)
Person 3	11-3-2020	Active	48	2020 Provisional—not counted (not registered)
Person 4	11-3-2020	Active	35	2020 Provisional—not counted (not registered)
Person 5	11-3-2020	Active	64	2020 Provisional—not counted (not registered)
Person 6	11-3-2020	Active	21	2020 Provisional—not counted (not registered)
Person 7	4-7-2016	Inactive	27	Never voted
Person 8	11-3-2020	Active	31	2020 Provisional—not counted (not registered)
Person 9	11-3-2020	Active	59	2020 Provisional—not counted (not registered)
Person 10	11-3-2020	Active	62	2020 Provisional—not counted (not registered)

Table 15 (continued)

Name	Registration Date	Status	Age	Elections Voted & Notes
Person 11	9-3-2020 (in Wilson)	Active	36	2008 primary and general (Cumberland County) 2012 general, 2014 general, 2016 primary and general (Johnston County) 2020 general (Wilson County)
Person 12	11-3-2020	Inactive	43	2020 Provisional—not counted (not registered)
Person 13	11-3-2020	Active	46	2020 Provisional—not counted (not registered)

SOURCES: NORTH CAROLINA STATE AND WILSON COUNTY BOARDS OF ELECTIONS

(One of the writers of this review visited the house in the summer of 2021 and found no evidence that anyone was living there, let alone 13 people.)

Cheri Beasley and Paul Newby: The Fight to Change the Electorate Through Provisional Ballots

How county election boards handle provisional ballots can help determine who wins a close race, which happened during the 2020 North Carolina general election.

Challenger Paul Newby led incumbent Cheri Beasley in the North Carolina Supreme Court chief justice race by only 406 votes after county elections boards completed their official count.

In addition to requesting a recount, the Beasley campaign also filed cookie-cutter protests with numerous county boards of elections seeking to get them to change their rulings against counting some provisional and absentee ballots.¹⁵⁶

The Beasley campaign claimed that their effort was an attempt to make sure that “every single vote has been counted” and to “ensure over 2,000 absentee and provisional ballots that were wrongfully rejected are included in the final tally.”¹⁵⁷ However, a review of her campaign’s protests revealed a disturbing trend.

Over 70 percent of those protested ballots were from Democrats, even though they accounted for only 37.8 percent of the provisional and absentee ballots that election boards did not count.¹⁵⁸ This calls into question Beasley’s claims that they used politically neutral criteria to select which provisional and absentee ballots to protest. Had the county or state elections boards accepted Beasley’s protests, they would have been subjected to lawsuits for not affording voters equal protection of the law based on their political affiliation. County election boards rejected most of the Beasley campaign’s protests, forcing her to concede the race in mid-December.¹⁵⁹

Her competitor protested a smaller number of ballots, mostly ballots that election boards accepted despite evidence that the voters in question were dead.¹⁶⁰

Newby won the election by a final count of 401 votes. His margin of victory for provisional ballots was 989 votes.¹⁶¹

Lessons Learned

The Newby/Beasley saga underscored the importance of election officials getting provisional ballots right. The fact that election boards did not find merit in most of the Beasley campaign’s protests indicates that the initial assessments of election officials were correct.

County officials should review their provisional ballot standards to ensure they are consistently used across the state. They must also resist political pressure when considering protests of provisional ballot rulings, particularly from the governor’s party (which controls the majority on all elections boards).



VOTE

VOTE

VOTE

VOTE

OTE

KNOWN PROBLEMS WITH VOTING AND COUNTING BALLOTS

No human endeavor is executed flawlessly. That is especially true with large and complex operations, such as election administration. However, those problems can be minimalized through training and preparation.

The issues detailed in this section are primarily simple human errors or misapplications of policy. As such, they are not easily fixed through legislative solutions. Other issues can be resolved, or at least mitigated, through law or other changes. Officials should seek to correct the problems caused or exacerbated by poor policy decisions wherever they can.

Early Votes Not Counted: Robeson County

In Robeson County, 1,951 one-stop early votes cast at the Pembroke Fire Station were left unreported on election night.¹⁶² According to Robeson County Elections Director Tina Bledsoe, the staff failed to remove a

memory card from a ballot tabulator. Those votes were not transmitted to the North Carolina State Board of Elections (SBE) database. Bledsoe stated that the ballots were never missing but blamed the failure on staffing shortages during the 2020 election. According to Bledsoe, her usual election-night staff of six was down to three due to early departures as counting stretched well into election night.

Robeson County Board of Elections Chair Larry Townsend stated, “In spite of the rumors and accusations, nobody but Jesus Christ knows what’s in these machines.”¹⁶³

It is impossible to know how many similar instances happened across the state. However, state officials assured the public that most counties use newer machines with failsafe measures that help avoid problems like the one in Pembroke.

The roughly 2,000 votes were not added to state vote totals until the county canvas, over a week after election day.

Absentee Ballots Counted Twice: Washington County

The Washington County Board of Elections counted some absentee-by-mail ballots twice. Washington County Manager Curtis Potter stated that the double-counting was due to an issue uploading information from older machines combined with human error.¹⁶⁴ The problems caused tabulators to count absentee ballots that had already been counted a week prior.

Officials caught the error during the county canvas, which takes place ten days after election day. After election officials corrected the miscount, Paul Newby’s lead over Cheri Beasley in the close race for chief justice of the North Carolina Supreme Court increased by 205 votes.¹⁶⁵

Illegal Voter “Assistance:” Anson County

Anson County perhaps provided the most glaring instance of known illegality in the North Carolina 2020 general election. John Montgomery, whose wife Dannie Montgomery was running for the Anson County Register of Deeds, escorted dozens of voters into the polling place and stood by them as they marked their ballots. In at least one instance, John marked a ballot while the voter stood behind him with his hands in his pocket.¹⁶⁶

North Carolina General Statutes § 163-166.8(a) states that voters may receive assistance from non-family members only under the following circumstances:

- ▶ *A voter who, on account of physical disability, is unable to enter the voting booth without assistance.*
- ▶ *A voter who, on account of physical disability, is unable to mark a ballot without assistance.*
- ▶ *A voter who, on account of illiteracy, is unable to mark a ballot without assistance.*
- ▶ *A voter who, on account of blindness, is unable to enter the voting booth or mark a ballot without assistance.*¹⁶⁷

Complaints filed with the Anson County Board of Elections alleged that John Montgomery and several others approached voters in the precinct parking lot, offering to help them vote.

WBTV, a local news outlet, reported the minutes of the Anson County Board of Elections meeting on October 23, 2020, which showed that local elections staff had already received a written reminder of North Carolina’s voter assistance law. Though the county board of elections voted to warn the Montgomery campaign verbally, complaints about voter assistance violations persisted. When WBTV requested the elections board to produce a video from inside the voting area, the board denied such

a video existed. WBTV later obtained the video, which had been partly overwritten or deleted due to what was deemed “IT Protocols.”¹⁶⁸

In another complaint filed with the county elections board, a citizen claimed being intimidated into voting for Ms. Montgomery:

*As soon as I pulled up and exited my vehicle a campaign worker came up to me and forced me to vote for Dannie Montgomery and told me not to vote Greg Eudy. As a first time voter I felt it wasn't fair to me.*¹⁶⁹

It is unclear at this time if John Montgomery was ever charged with a crime. His name is not on either the 2020 or 2021 list of cases referred to prosecutors by the State Board of Elections Investigations Division.¹⁷⁰

Police Officers Barred from Voting: Durham County

During early voting in the 2020 general election, an election official in Durham County stopped uniformed deputies from voting:

*In Durham, a poll worker recently turned away two deputies who showed up to vote while in uniform at the Durham County Library polling location.*¹⁷¹

The ban became public knowledge only after former Durham Sheriff Mike Andrews posted on Facebook that “two deputies were denied the right to vote in their uniform.”

That post prompted some backtracking from Durham election officials, and the officers were later able to vote. Durham Director of Elections Derek Bowens said the ban was “erroneous” but “taken from the perspective of mitigating voter intimidation.”

The idea that uniformed police officers must be kept away from polling places to avoid “voter intimidation” was reinforced by a memo from Karen Brinson Bell, executive director of the North Carolina SBE. She argued

that voters may find police officers at polling places “intimidating.”¹⁷²

The memo went as far as seeking to ban police officers from their usual professional activities. It stated that law enforcement may only “periodically drive by” polling places in need of increased security and that any officers on hand at polling places to help with parking and traffic issues “must be in plain clothes.” The fact that election officials do not have the authority to enforce either of those recommendations did not stop the SBE from making them.

At the end of the memo, Brinson Bell affirmed that the police officers are “permitted” to vote while in uniform. However, since election officials see uniformed police officers at polling places as harmful, they may see any uniformed police presence for any reason, including voting, as an unacceptable form of voter suppression. Nothing in current law would prevent election officials from instituting such a voting ban on uniformed police officers.

Election Observers Barred from Opening of Polling Places and Seeing Ballot Counting: Wake County

The elections section of the North Carolina Administrative Code states that any member of the public has the right to observe the startup procedures before the opening of voting places:

*Prior to the opening of the polls, the precinct officials shall open the voting system and examine the ballot for accuracy and examine the counters or other method to determine there is a zero balance. Any persons interested in viewing this procedure may observe but shall not interfere or impede the process.*¹⁷³

Neither the code nor North Carolina law states a different procedure for opening at early “one-stop” voting sites.

Despite that, the Wake County Board of Elections banned members of the public from observing the opening procedures at early voting sites. A Republican poll observer physically pushed back an election official blocking access at one location in Wake County. The observer was later cited for misdemeanor assault.¹⁷⁴

The Wake County Board of Elections also bars members of the public from observing and photographing tabulation tapes for early and absentee ballots after polls close at 7:30 p.m. on election night.¹⁷⁵ Counties complete tabulating those ballots, except absentee ballots that come later, on the afternoon of election day. Those tapes are printed at the time but cannot be made available until after polls close (see Figure 9) for an example of that process). By banning voters from observing the tabulation days, Wake County is likely violating North Carolina law, which states, “Any member of the public wishing to witness the vote count at any level shall be allowed to do so.”¹⁷⁶

Figure 9



PHOTO BY ANDY JACKSON

A member of the McDowell County Board of Elections rolls a tape showing the results of early and absentee votes on the afternoon of the 11th Congressional District second primary on June 23, 2020.

People Trying to Vote Who Were Told They Had Already Voted: Statewide

More concerning than voting machines malfunctioning for a prospective voter, is the thought of being told your ballot had already been cast. That is what happened to Del Corno Prince in Durham County.¹⁷⁷ Like 914 other North Carolinians,¹⁷⁸ Mr. Prince had to cast a provisional ballot because election officials told him someone had already voted in his name. In comparison, in 2016, only 452 ballots were marked provisional because the person had already voted. That increase is at least partially because many more absentee ballots were in circulation in 2020. Additional absentee ballots increased opportunities both for people to forget that they voted by mail and for people other than the voters to gain possession of their ballots and submit them. Voting on behalf of someone else or handling ballots by non-family members is illegal in North Carolina. Simple mistakes by election officials could also account for voters being required to cast provisional ballots.

The good news for Mr. Prince is that his ballot was eventually counted. Five hundred of the 914 ballots marked provisional were likewise eventually counted,¹⁷⁹ suggesting that clerical errors by election workers accounted for most of those provisional ballots.

Various Problems Cause Voting Period Extensions: Cabarrus, Sampson, and Warren Counties

According to a report in the Fayetteville Observer, election problems persisted across North Carolina in 2020. Ten precincts across the state had their voting hours extended by the State Board of Elections due to a wide range of problems, from missing codes to open voting machines and other equipment malfunctions. In Warren County, three voting sites could not open because the staff had not received the correct code to

open them. None of those delays lasted over 30 minutes. One Cabarrus County precinct was forced to stop voting for 39 minutes due to an equipment malfunction. Additionally, two sites in Sampson County had their voting periods extended by 21 and 40 minutes due to technical issues.¹⁸⁰

Lessons Learned

The common thread through most of the problems noted in this section is human error. There was a relatively high turnover rate of election workers in 2020 due to concerns by some older workers, who are often retirees, over the Covid-19 pandemic. The resulting drop in the average experience of workers may have increased the likelihood of such errors.

While it is not possible to eliminate mistakes completely, they can be reduced through a more thorough training of election workers. The State Board of Elections can help by writing fewer and more concise memos to county boards, especially once absentee voting has started.

Some of the problems noted in this section also have a legislative solution. The General Assembly should pass legislation requiring county boards to record the name and address of those who assist people with one-stop or election day voting. Such information is already required from people who assist voters in voting by mail.

The General Assembly should also affirm through legislation the right of police officers and other uniformed personnel to vote while in uniform and make it more explicit that members of the public have the right to observe the early and absentee ballot tabulation tapes after polls close.

Seeing the tabulation tapes for early and absentee ballots on election night is part of the public's right to "witness the vote count at any level" enshrined in North Carolina law. That should be self-evident, but Wake (and perhaps other counties) persist in denying members of the public that access. Likewise, citizens have a right to witness both the "zero balance" on ballot tabulators on election day and the number of votes on

tabulators before and after voting at early voting sites. The State Board of Elections should issue clear guidelines to county election boards to that effect. If the state board fails to do so, the General Assembly should clarify that right through legislation.





**OFFICIALLY REPORTED CASES
OF ELECTION FRAUD**

One of the functions of county election boards and the North Carolina State Board of Elections (SBE) is protecting our votes and elections from fraud.

While no large election is entirely free of fraud, the SBE will conduct hearings only if there is evidence indicating that fraud or other election irregularities were potentially widespread enough to alter the outcome of an election. The most famous recent example was their refusal to certify the 9th Congressional District race over allegations of absentee ballot fraud in 2018.

Few reported cases of election fraud are referred to prosecutors, however. While the SBE does not keep records of how many of their referrals result in prosecutions, much less convictions, there is evidence that the rate for referrals resulting in prosecutions is low.

Recent Cases of Election Fraud in North Carolina

North Carolina is home to perhaps the most well-known recent election fraud case in the United States, the alleged absentee ballot trafficking fraud in Bladen County in the 2018 general election. That case resulted in the SBE forcing a redo of the 2018 9th Congressional District election.

Locke discovered in the months after that election that the absentee ballot fraud in Bladen County was more widespread than suggested by the SBE hearing on the 9th District race and had been going on for several election cycles.^{181,182}

North Carolina has also hosted other credible accounts of organized election fraud, most of which have not been investigated by law enforcement, much less prosecuted.¹⁸³ However, a few of those unprosecuted cases did make it into local news media. They include a report that Swain County Commissioner Chairman Glen Jones conducted a ballot trafficking operation in the 2006 election that targeting people in assisted living facilities. As reported in the Smoky Mountain News:

Patients in two nursing homes were targeted as part of a voting drive spearheaded by two prominent Democrats — Commissioner Chairman Glenn Jones and Willard Smith, a long-time leader in the local Democratic Party. Smith, accompanied by Jones, helped at least five nursing home patients request mail-in ballots and then fill them out, according to interviews with the patients themselves and a review of the ballot requests and ballot envelopes.

An “X” appeared in lieu of a signature for three of the nursing home voters on their ballot requests and ballots. Smith had filled out both the ballot requests and the ballots for the three patients, marked an “X” in lieu of their signatures, and signed his own name as a witness on the ballot envelope — all seemingly in violation of state law since he wasn’t a near relative. A fourth voter, although he had signed his own name on his ballot, could

*not remember voting when asked about it three months later. Smith had witnessed that voter's ballot as well. A fifth nursing home voter remembered voting, but said Smith had filled out his ballot for him and all he had to do was sign his name.*¹⁸⁴

Local media also uncovered an absentee ballot trafficking operation in the 2010 Yancey County sheriff's race that included reports of sheriff's office employees illegally possessing others' ballots and coercing at least one person with an offer to "reduce charges that had been filed against him in return for his vote."^{185,186}

The media accounts of those incidents were published months after the elections were certified.

Election fraud can be challenging to detect and even more difficult to prosecute. That means justice in those cases can take years. For example, two people, Wanda Blue and Julia Shaw, were convicted of illegally taking possession of the ballots of assisted living facility patients in 2020. They committed those crimes in 2016.¹⁸⁷

Election Fraud Reported but a Dearth of Referrals to Prosecutors

In North Carolina, county election officials refer suspected election law violations to the State Board of Elections. These referred cases are subsequently reviewed, investigated, and, if a report is determined to be substantive, referred to whichever state or federal law enforcement agency is appropriate. Concerning the two most recent elections, the SBE received a total of 358 complaints (see Table 16).¹⁸⁸

Table 16: Election fraud complaints filed during or after the 2020 general and 2021 municipal elections.
Source: North Carolina State Board of Elections

Type of Case	Number of Complaints
Absentee Ballot (ABS) Fraud	14
Candidate Disclosure	1
Double Voter	183
False Advertising	1
Felon Registrant	5
Felon Voter	57
Non-Citizen Voter	6
Photographing Voted Ballot	24
Residency Issue	10
Voter Assistance	5
Vote Buying	7
Voter Impersonation	35
Voter Intimidation	1
Voter Registration	8
Voter Suppression	1
Total	358

In the 2020 general and 2021 municipal elections, the SBE deemed 61 cases of alleged illegal voting worthy of referral to prosecutors.¹⁸⁹ Though the reported cases are not distinguished by election, 34 cases originated from complaints in 2020 after September 1. They are listed in Table 17.

Table 17: Types of cases referred by the North Carolina State Board of Elections to prosecutors after September 1, 2020. Source: North Carolina State Board of Elections

Type of Case	# Cases Referred to DA
Double Voting	3
Felon Voting	26
Voter Impersonation	2
ABS Fraud	1
Non-Citizen Registrant/Voter	1
Other	1
Total	34

Twenty-six cases originated from complaints filed after 2020, but it is unclear how many of those cases were the result of violations. However, considering the number of voters who took to the ballot box in the 2020 general election and 2021 municipal elections, it is safe to assume that most of those complaints are regarding the former election. Based on the above information, the SBE referred 60 cases for prosecution out of 358 complaints in those elections, which equates to a referral rate of 17 percent.

From that point, district attorneys or federal prosecutors decide whether a particular violation warrants further investigation and potential prosecution.¹⁹⁰

Broader Context of Election Fraud Claims

Table 18 shows the total number of cases referred for prosecution by the North Carolina State Board of Elections from 2015 to 2021.

Table 18: Election fraud cases referred by the North Carolina State Board of Elections to prosecutors between 2015 and 2021, by category. Source: North Carolina State Board of Elections

Year	Double Voter	Felon Voter	Felon Registrant	Impersonation of a voter	Vote-Buying	ABS Fraud
2015	21	9	1	2	3	1
2016	9	16	0	1	0	3
2017	7	422	5	1	0	0
2018	12	12	12	1	1	3
2019	0	0	2	0	0	3
2020	3	26	0	2	0	1
2021	7	13	0	4	0	0
Total	59	498	20	11	4	11

Table 18 (continued)

Year	Voter Registration	Interfering with an Election Official	Non- Citizen Registrant/Voter	Other	Total
2015	1	0	3	3	44
2016	0	2	2	3	36
2017	0	0	0	0	435
2018	6	1	1	0	49
2019	0	0	0	1	6
2020	0	0	1	1	34
2021	0	0	0	0	24
Total	7	3	7	8	628

From this graph, it's clear that most voter fraud cases referred for prosecution are the result of convicted felons casting ballots. In 2020, the SBE referred 26 such cases for prosecution over this violation, and 2021 yielded an additional 13. For those two years, 39 out of the 57 fraud complaints to the SBE were about felons casting a vote.¹⁹¹

The referral of 26 felon voting cases in 2020 is the second-highest number since 2015, the earliest NCSBE records show. There were an eye-popping 422 referred cases in 2017, which was an aberration likely due to an emphasis on investigations by the head of the SBE at the time.

An Ongoing Lack of Investigations and Prosecutions of Alleged Election Fraud

The State Board also does not provide any way of tracking the cases it refers for prosecution. That makes it impossible to determine the conviction rate for these cases if they are even indicted. All that can be determined is that the referral rate for the 2020 general election and 2021 municipal elections was 17 percent.

While SBE does not keep data on how many of the cases they referred to prosecutors resulted in criminal convictions or even investigations, we do know that the proportion is frustratingly small, as former SBE Executive Director Gary Bartlett complained in 2018. As reported by the News & Observer:

Bartlett said he referred “more than half a dozen” cases of apparent fraud involving absentee ballots, but no action was taken by law enforcement. “We don’t know what happened on the other end because once we provided the information to state or federal (authorities) we don’t do a thing unless they ask,” he said. ...

Bartlett said he referred alleged absentee fraud cases for investigation in Yancey, Bladen, Robeson, Mitchell, Swain and Columbus counties without action being taken. He said state and federal law enforcement officers have been aggressive in prosecuting violations of elections laws by officials, such as former state Agriculture Commissioner Meg Scott Phipps, House Speaker Jim Black and state Rep. Thomas Wright, “but if it’s on a lower level, it may get handled and it may not.”¹⁹²

The SBE has also actively hindered at least one election fraud investigation. As part of a larger investigation conducted by the United States Department of Justice, more than 40 individuals in North Carolina were charged with illegally casting ballots in the 2016 election. The Justice Department complained that the SBE slow-walked data transfers, which functioned to “impede this investigation at every turn.”¹⁹³

The federal investigation primarily targeted alleged non-citizen voting. It was separate from any SBE investigations, so the cases prosecuted under that investigation are not included in the State Board’s case referral list. There have only been seven cases of non-citizen registration/voting referred by the SBE since 2015.

Reported cases of non-citizen voting, a particular concern in states without voter ID laws such as North Carolina, have similarly remained low. However, without measures specifically to safeguard against this type of fraud, the low number of cases likely represents only the tip of the iceberg.

Lessons Learned

The current system of the State Board of Elections is woefully inadequate when investigating alleged cases of election fraud. There are simply too many choke points where the pursuit of justice can be thwarted, from inadequate or lackluster investigations to minimal prosecutions.

County election boards and the state board must continue to investigate alleged election fraud. The state board must continue to have an independent investigation capacity to assist county boards in determining the veracity of election fraud allegations and making a timely determination of whether the fraud was widespread enough to cast doubt on the outcome of an election.

The General Assembly should pass legislation creating a body tasked with conducting criminal investigations into alleged election fraud, either as an independent body or housed within the State Bureau of Investigation.

The Florida legislature recently created such a body, the Office of Election Crimes and Security, within their Department of State. It also added positions and resources within the Florida Department of Law Enforcement “to support the criminal investigation of election crimes in partnership with the Office of Election Crimes and Security.”¹⁹⁴

The General Assembly took a step in that direction by adding a provision in the 2021 budget stating that it “shall be the duty of the State Bureau of Investigation and the district attorneys to investigate any violations” of election law caused by fraud.¹⁹⁵ However, the legislation fell short because it did not create a body dedicated to systematically investigating allegations of election fraud.



ELECTION DATA AND POST-ELECTION AUDITS

There are a variety of counting procedures that county boards of elections must follow, but how do they ensure that the results are accurate? This section details the “ordinary” data procedures and audits that are followed to provide election results accurately and quickly to the public. It also highlights problems and potential solutions.

At this time, the legislature has given the State Board of Elections (SBE) broad discretion to “adopt uniform and nondiscriminatory procedures and standards for voting systems.”¹⁹⁶ There is a similar division of labor in post-election data procedures and audits, with the legislature providing the framework and the SBE filling in the details. Those procedures affect what data is available to the public, when it is available, and how it is verified.

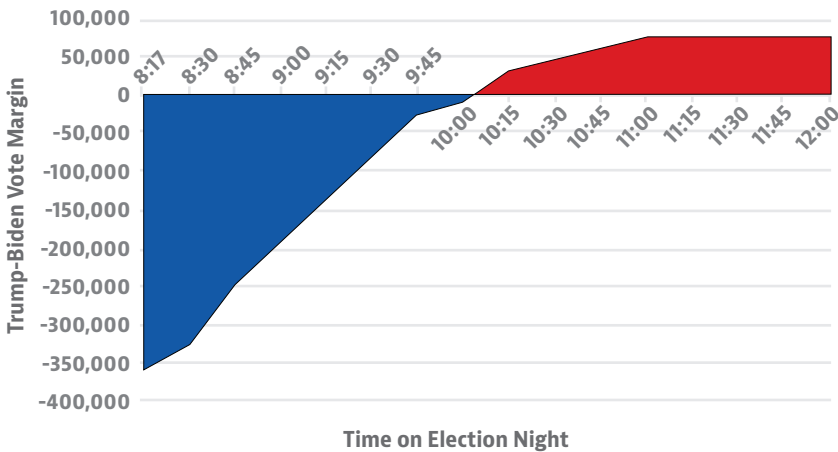
As this section covers the “ordinary” data procedures and audits, it will not cover issues already dealt with in other sections or the North Carolina Supreme Court chief justice race recount. However, it will include a reform proposal similar to what some would call election “forensic audits.”

Why North Carolina is a “Red Shift” State

One thing that makes North Carolina different from other states is that we do not have a pronounced “blue shift” (a change in election result percentages favoring Democrats) after election day.

In fact, North Carolina traditionally has a slight “red shift” on election night, with Democrat candidates leading early in the night and Republicans catching up as the night wears on. As seen in Figure 9, the presidential race in North Carolina fit that pattern, with Joe Biden ahead in the first few hours after polls closed and Trump pulling ahead late on election night.¹⁹⁷

Figure 9: The “red shift in the presidential race in North Carolina on election night in 2020, from the release of one-stop and mail vote totals at 8:17 PM.



SOURCE: WCNC CHARLOTTE (THE 10:45 DATA POINT WAS INTERPOLATED FROM OTHER DATA)

That election night shift is due to a combination of partisan variation in how people vote and when county boards of elections count different types of ballots.¹⁹⁸

County election boards process absentee-by-mail ballots and feed them into tabulators for five weeks before election day.¹⁹⁹ They officially count all mail ballots received before election day and all one-stop ballots at 5:00 PM on election day.²⁰⁰ Those votes are among the first county boards reported after the polls close. The speed of counting most mail ballots put North Carolina at odds with the national trend of states being slower to report 2020 results “if they had large volumes of mail ballots.”²⁰¹

Almost all election day ballots are counted later that night. That only leaves two relatively small batches of ballots reported after election night; mail ballots that came in on election day or later and provisional ballots. The “vast majority” of ballots elections are counted on election night in North Carolina.²⁰²

Joe Biden dominated absentee-by-mail ballots in 2020 in North Carolina, all but 38,033 of which were counted on election day (Table 19).²⁰³ Donald Trump did better than Biden with one-stop voters but by a smaller margin. That meant Biden started election night ahead in the initial reports after the polls closed at 8:15 PM.²⁰⁴ Trump passed Biden later in the evening as precincts started to finalize and announce their results. Provisional ballot and the small remaining mail ballot returns were reported by the time of the county canvas and the official election count ten days after election day.

Table 19: Votes for Donald Trump and Joe Biden for president in 2020 in North Carolina by voting method.

Candidate	Absentee One-Stop	Absentee By-Mail	Election Day	Provisional	Total Votes
Donald Trump	1,890,765	277,862	581,189	8,959	2,758,775
Joe Biden	1,685,558	699,774	292,173	6,787	2,684,292

SOURCE: NORTH CAROLINA STATE BOARD OF ELECTIONS

Lack of Public Access to Election Procedures

There were problems with elections boards not providing public access to assure members of the public that election procedures and systems were working.

State regulations require every election board to conduct “logic and accuracy” testing on each of its voting systems (ballot marking devices and tabulators) before elections to “ensure that the system is operational and has been programmed to count votes accurately.”²⁰⁵ Those regulations also require that “any interested person may observe the testing of the voting system.”²⁰⁶ However, reports indicate that several county elections boards failed to notify the public and or give them enough access to make meaningful observations of the tests.²⁰⁷

The SBE illegally limited the number of election observers at early voting sites during the election. (For more details, see sections “Misdeeds by the State Board of Elections” and “Known Problems with Voting and Counting Ballots”).

Election Audits and Procedures: General Practice

The “post-election audits” section of North Carolina law is maddingly brief and broad:

*After conducting a post-election audit, the State Board shall produce a report which summarizes the audit, including the rationale for and the findings of the audit. The report shall be submitted to the Joint Legislative Elections Oversight Committee and the Joint Legislative Oversight Committee on General Government within 10 business days of the date the audit is completed.*²⁰⁸

However, other procedures in statute and practice fall within the rubric of post-election audits. For example, another section of North Carolina

law mandates a sample hand-to-eye count in every county. The sample size for that count must be large enough to “produce a statistically significant result and shall be chosen after consultation with a statistician.”²⁰⁹ The SBE satisfies that requirement by having every county conduct these counts in two “randomly selected samples,” which can be election day precincts, one-stop sites, or a county’s entire batch of absentee-by-mail ballots.²¹⁰

Another helpful factor is that county boards of elections are legally required to sort all ballots—including mail, one-stop, and provisional ballots—by precinct within 30 days of the election.²¹¹ That helps with independent analysis of results, especially detecting results that vary widely from past elections in those precincts.

Post-2020 Election Data Audit

The SBE presented its 2020 election audit report to the General Assembly and the public after the state certification of most races on November 24, 2020. It is an exercise in brevity, coming in at just over two pages.²¹² It describes four audits the SBE and county elections boards performed after the election to check the accuracy of the reported election results.

- **The voter history audit** compares the number of entries for the 2020 general election in voter history records with the total number of ballots cast. The aggregate voter history entries indicate the number of times voters “check in” at precinct or early voting sites or submit an application through their absentee-by-mail ballot container envelope. There can be fewer ballots than voter history entries. For example, a voter checks in at an early voting site but decides not to vote or submits an empty ballot container envelope. However, the number of ballots should never exceed the number of voter history entries.

The audit report stated that only 75 of North Carolina’s 100 counties had completed the voter history audit by the time of the

statewide certification of most elections. They reported an “absolute value” of variance of 7.01 ballots per county or about 526 ballots. The SBE was content with those findings, saying, “very small variance of this audit does not affect the outcome of the contests being canvassed by the State Board today.”²¹³ The North Carolina Supreme Court chief justice race, which was decided by only 401 votes, was not certified that day.

- ▶ The **votes cast audit** checks for transcription deviances in cases where election officials enter results by hand from tally sheets or election result tapes. The audit found that “all transcription errors are small and well below the margins of victory in canvassed contests.”²¹⁴
- ▶ The **Sample Audit** is the legally required partial hand-to-eye recount of one race, always the presidential race every four years. The SBE reported that they “audited” (hand-to-eye recounted) “more than 150 Election Day precincts and 30 early voting sites” and that “a dozen counties conducted a hand-eye audit of all mail-in absentee ballots.”²¹⁵ It is unclear why they chose not to state precise numbers, but they reported that 200 “precincts” were audited. The audit found discrepancies between the machine and hand counts in 13 of those precincts (6.5 percent), with none of those discrepancies exceeding three votes.
- ▶ The SBE also reported no problems with the **Close Contest Audit** that performed data analysis on provisional ballots in counties with close contests that were certified on November 24.

The SBE or county elections boards performed all those audits. The SBE then presented the results and data from the audits to the General Assembly and the public.

North Carolina Lacks a Procedural Audit

The SBE's mandated post-election audit report to the General Assembly covered outcomes but not, with the possible exception of close contest audit, procedures. The National Conference of State Legislatures provides a glimpse of such an audit:

States may have a process for ensuring that the correct process and procedures were followed during the course of the election. This is referred to as a "procedural audit" and may be conducted instead of or in addition to a post-election audit. Procedural audits vary in their scope and comprehensiveness, but almost always include a ballot accounting and reconciliation process. This isn't a check that the software in the voting machine is working correctly, but rather a check on the human processes.²¹⁶

There is an overlap between procedural audits and what professors Andrew Appel and Philip Stark call "compliance audits" in their 2019 report. Their research found that election audits must be based on:

Voter-verified paper records; to ensure that those records include every validly cast vote exactly once, and no other votes (checking the determination of eligibility, in particular); to ensure that those records remain complete and intact from the moment they are cast through the audit; and to assess the evidence that they are trustworthy.²¹⁷

Determining voter eligibility would require a review of voter registration records.

A full procedural audit would also verify chains of custody for all ballots and voting equipment, ensuring that only eligible citizens can vote, and that observers and the public had meaningful access to every step of the election process.

The good news is that county boards of elections and local election officials already have a reconciliation process in place that collects much

of that data. It seeks to match information across several categories, including, for example, the total number of ballots issued with the total number of ballots cast within each voting location. Election officials complete reconciliation forms at the end of each day of voting.^{218, 219} That information is reported to county boards of elections and is already partially included in the SBE's audit report in the form of history and close contest audits. Reconciliation is also a part of the county canvass that takes place ten days after election day, and it would likely not take much more work to present the full findings in the SBE's post-election audit.

Lessons Learned

All phases of the election auditing process, including pre-election logic and accuracy testing of voting, should be observable by the public, and that opportunity should be meaningful.

The legally mandated audit the State Board of elections submits to the General Assembly should be expanded to include a procedural audit of voter registration, election operations, and verifiable paper trail along the lines of what some call a "forensic audit." County elections boards already do much of the work required for such audits. However, preparing that and other information would take additional work. Even fulfilling the current audit requirement was beyond the means of some county elections boards; a quarter of them failed to complete their data entry by the time the SBE certified the 2020 election. The General Assembly should examine the feasibility of pushing back the date most elections are certified to give more time for the SBE to complete a more comprehensive audit. (It would have to be before the constitutionally mandated electoral college meeting.)

The SBE has begun experimenting with risk limiting audits, which use statistical techniques to examine fewer ballots than the current system. That would potentially allow election boards to audit several races with the same resources.²²⁰ However, a risk limiting audit that "relies on an untrustworthy paper trail, or any audit that purports to ascertain voter

intent from an electronic record or from an artifact that the voter did not have the opportunity to check, is 'security theater.'"²²¹ Before the SBE can use risk limiting audits to satisfy the statutory requirement for a sample hand-to-eye count, all counties must switch to hand-marked paper ballots, and the SBE must include a procedural audit.

Due to the inherent conflict of interest involved with election bodies auditing themselves, an independent organization should conduct at least some sample audits. The problem is that no such group currently exists. While the logistical challenges of developing an independent election auditing body are daunting, it may be possible to build an organization capable of more limited random "spot audits." That organization could be housed in another state government body, such as the Office of the State Auditor, or a private organization accredited by the state.

Conclusion and Summary of Recommendations

The 2020 election placed unique stresses on our electoral system. Candidates, election officials, and citizens had to deal with a pandemic, civil unrest, and an especially agitated political environment.

This report covers the numerous difficulties, misapplications of law and policy, and other problems that plagued that election in North Carolina. However, it is not just a list of complaints and problems. It also details how our election system works and how it performed in 2020, despite the unique challenges of a pandemic. In many respects, the election system worked well.

There is a lack of direct evidence of election fraud significant enough to have altered any statewide races in the 2020 election. Nevertheless, it also revealed weaknesses in North Carolina's election laws and administration that undermined election security.

The "lessons learned" portions of each section in this report contain policy recommendations, most of which require reforms to North Carolina's election law

Reformers must be ready to move quickly to implement changes when events open a window of opportunity or as part of a compromise. One example is the bipartisan changes made after an alleged ballot trafficking controversy in the 2018 9th Congressional District race. Another is the 2021 budget bill, which prohibited collusive lawsuit settlements such as the one in 2020 between the State Board of Elections and Democratic attorney Marc Elias that altered absentee-by-mail voting laws. That budget also contained enough items supported by Democrats that the General Assembly passed it with veto-proof majorities.

With that in mind, legislators should be ready to implement changes to election law and other reforms when they can. Those reforms include:

Absentee Voting:

- ▶ Require that every absentee ballot illegally transmitted to county elections boards be made provisional pending verification that the voter completed the ballot received by the board.
- ▶ Investigate the feasibility of requiring signature matching for absentee ballot container envelopes as an additional layer of security. Any signature-matching system would require training for local election officials and likely also the purchase of specialized software to ensure that all voters are treated equally.
- ▶ Require that county elections boards receive all absentee-by-mail ballots by election day. Military and overseas ballots would be excepted from that requirement per federal law. The deadline to request absentee ballots should be the second Thursday (12 days) before the election. That would give voters enough time to request, receive, and return their mail ballots by election day.

Voting Machines:

- ▶ Require counties to phase out ballot marking devices in favor of hand-marked paper ballots by the end of the 2020s. The only exceptions should be in accordance with the American with Disabilities Act.

- ▶ Require random or systematic outside inspection of ballot tabulators either by a laboratory accredited by the U.S. Election Assistance Commission or by county election officials with legislators or legislative staff observing.

Redistricting and Election Administration:

- ▶ Create a bipartisan advisory committee to draft recommendations for legislative and congressional districts. Per the North Carolina State Constitution, the General Assembly would still be responsible for drawing those districts.
- ▶ Ban the private funding of election administration (“Zuck Bucks” and similar programs). If that’s politically impossible, create a system in which such funds are collected by the SBE and sent to all county boards of elections based on a formula established by the General Assembly. There should be no direct contact between county election boards and private funders.
- ▶ Investigate the practicality of requiring partisan balance for staff at one-stop voting locations unless workers from one party are unavailable by statute. There is already a similar legal requirement for partisan balance when staffing election officials at election day polling places.

Voter Registration:

- ▶ Require the North Carolina court system to share data with election boards on people disqualified from jury duty because they are not citizens.
- ▶ Fund interstate data-sharing to help clean voter registration rolls. The General Assembly approved one year of funding for the SBE to join the Electronic Registration Information Center (ERIC). The program is currently the only viable interstate data-sharing program available. If that experiment successfully cleans voter rolls, the General Assembly should continue funding ERIC membership unless a viable alternative becomes available.

- ▶ Require county elections boards to check registration addresses against tax records and other lists to see if they are commercial properties or vacant lots.
- ▶ Make ballots associated with new same-day registrations (as opposed to address or party changes) provisional until county elections boards confirm the addresses of those registrations.

Voting and Election Observers:

- ▶ Affirm through legislation the right of police officers and others to vote while in uniform.
- ▶ Make it explicit that members of the public, including election observers, have the right to observe meaningfully the logic and accuracy testing of voting machines; the “zero balance” on ballot tabulators on election day; the number of votes on tabulators before and after voting at early voting sites on each day of early voting; and the early and absentee-by-mail ballot tabulation tapes at county boards of elections facilities after polls close.
- ▶ Require election officials to record the names and addresses of those who assist people with one-stop or election day voting, as is already required for absentee-by-mail ballots.

Election Audits and Fraud:

- ▶ Create a body tasked with conducting criminal investigations into alleged election fraud, either as an independent organization or housed within the State Bureau of Investigation. Do not remove the SBE’s internal capacity to investigate allegations of election fraud to determine if elections in which fraud allegedly took place can be certified.
- ▶ Expand the required SBE post-election audit report to the General Assembly. It should include a procedural audit of voter registration, election operations, and a verifiable paper trail of votes. Consider pushing back the date most elections are certified to

give county election boards more time to complete a comprehensive audit.

- ▶ Do not allow the SBE to use risk-limiting audits to satisfy the statutory requirement for a sample hand-to-eye count until all counties have switched to hand-marked paper ballots and the SBE has implemented a procedural audit.
- ▶ Investigate the feasibility of having an independent organization conduct at least some sample or random “spot audits.” That organization could be housed in another state government body, such as the Office of the State Auditor, or a private organization accredited by the state.

Additionally, legislators should review the State Board of Elections’ conduct towards election observers in 2020 and beyond and consider oversight and legislation to remedy any misapplications of election law they find.

Some of the reforms listed above could also be implemented by the SBE and county elections boards without legislation. The State Board of Elections can also help reduce confusion by local election officials by issuing fewer memos recommending policy changes to county boards, especially once absentee voting has started. That should be easier with the ban on collusive lawsuit settlements passed in 2021.

In addition, the SBE should refrain from promoting absentee-by-mail voting absent a once-in-a-century pandemic. Ballots sent outside the relative safety of voting places are inherently less secure.

While this review of the 2020 election and the resulting policy recommendations are extensive, they are not exhaustive. The scope of this work was limited by lack of time and staff. Future research will find other issues with our election system that should be addressed.

The 2020 election was a stress test that exposed the strengths and weaknesses of how elections are conducted in North Carolina. It may take many years of consistent efforts by legislators, other government

officials, and ordinary citizens before the state government implements reforms to correct those failings. Through those efforts, the lessons of 2020 will help us improve North Carolina's elections.

Appendices

Appendix 1: Required distribution of federal CARES Act and related state funds to county boards of elections in the Bipartisan Elections Act of 2020, based on the spending formula within the legislation.²²²

County	Required Distribution
Alamance	\$ 133,195.38
Alexander	\$ 51,182.32
Alleghany	\$ 32,979.82
Anson	\$ 43,448.19
Ashe	\$ 45,354.80
Avery	\$ 46,049.89
Beaufort	\$ 55,638.06
Bertie	\$ 40,888.03
Bladen	\$ 47,788.17
Brunswick	\$ 178,825.84
Buncombe	\$ 468,569.46
Burke	\$ 87,450.42
Cabarrus	\$ 236,080.89
Caldwell	\$ 72,476.46
Camden	\$ 33,371.06
Carteret	\$ 81,209.04
Caswell	\$ 42,140.91
Catawba	\$ 136,903.99
Chatham	\$ 104,221.70
Cherokee	\$ 66,391.54

County	Required Distribution
Chowan	\$ 37,945.49
Clay	\$ 40,435.99
Cleveland	\$ 79,968.84
Columbus	\$ 58,817.65
Craven	\$ 98,708.83
Cumberland	\$ 196,044.64
Currituck	\$ 51,238.62
Dare	\$ 56,839.54
Davidson	\$ 140,646.01
Davie	\$ 67,304.20
Duplin	\$ 53,323.50
Durham	\$ 375,597.91
Edgecombe	\$ 59,686.58
Forsyth	\$ 300,750.12
Franklin	\$ 72,096.48
Gaston	\$ 178,745.25
Gates	\$ 34,275.31
Graham	\$ 39,511.39
Granville	\$ 66,455.42
Greene	\$ 38,863.38
Guilford	\$ 420,760.03
Halifax	\$ 59,726.22
Harnett	\$ 104,729.26
Haywood	\$ 122,082.13
Henderson	\$ 214,047.83

County	Required Distribution
Hertford	\$ 41,955.15
Hoke	\$ 59,488.70
Hyde	\$ 32,658.08
Iredell	\$ 209,835.32
Jackson	\$ 75,636.28
Johnston	\$ 219,640.35
Jones	\$ 35,647.26
Lee	\$ 64,000.26
Lenoir	\$ 59,846.69
Lincoln	\$ 111,177.68
Macon	\$ 71,065.91
Madison	\$ 55,298.22
Martin	\$ 43,171.50
McDowell	\$ 77,457.98
Mecklenburg	\$ 1,174,063.19
Mitchell	\$ 46,403.53
Montgomery	\$ 42,670.07
Moore	\$ 126,839.45
Nash	\$ 81,311.09
New Hanover	\$ 287,793.27
Northampton	\$ 41,303.07
Onslow	\$ 112,058.57
Orange	\$ 201,105.49
Pamlico	\$ 35,418.82
Pasquotank	\$ 52,290.58

County	Required Distribution
Pender	\$ 85,092.35
Perquimans	\$ 37,757.40
Person	\$ 53,667.66
Pitt	\$ 124,850.01
Polk	\$ 53,526.73
Randolph	\$ 123,290.65
Richmond	\$ 53,532.58
Robeson	\$ 88,656.57
Rockingham	\$ 76,439.49
Rowan	\$ 126,666.23
Rutherford	\$ 96,869.27
Sampson	\$ 59,609.64
Scotland	\$ 47,481.16
Stanly	\$ 69,527.07
Stokes	\$ 58,371.05
Surry	\$ 74,135.63
Swain	\$ 45,387.17
Transylvania	\$ 70,920.68
Tyrrell	\$ 31,878.53
Union	\$ 265,350.17
Vance	\$ 53,297.08
Wake	\$ 1,173,066.50
Warren	\$ 40,443.46
Washington	\$ 36,773.45
Watauga	\$ 93,203.65

County	Required Distribution
Wayne	\$ 87,826.50
Wilkes	\$ 63,144.42
Wilson	\$ 73,112.23
Yadkin	\$ 50,804.02
Yancey	\$ 50,050.09

Appendix 2: Details of the Center for Tech and Civic Life (CTCL) grants given to boards of elections in North Carolina. (Internal Revenue Service²²³)

County	Grant Amount	Grant Amount per Voter
Alamance	\$101,061.00	\$0.91
Alleghany	\$7,157.00	\$0.94
Beaufort	\$32,648.00	\$0.96
Brunswick	\$67,291.00	\$0.59
Buncombe	\$135,881.00	\$0.66
Camden	\$5,362.00	\$0.66
Catawba	\$91,068.00	\$0.84
Clay	\$5,163.00	\$0.57
Craven	\$70,430.00	\$0.97
Durham	\$1,341,779.00	\$5.49
Edgecombe	\$20,224.00	\$0.56
Graham	\$5,000.00	\$0.82
Harnett	\$79,173.00	\$0.96
Hoke	\$49,049.00	\$1.48
Iredell	\$96,648.00	\$0.74
Jackson	\$23,181.00	\$0.78

County	Grant Amount	Grant Amount per Voter
Johnston	\$112,055.00	\$0.78
Jones	\$8,311.00	\$1.12
Lee	\$40,065.00	\$1.04
Lenoir	\$60,088.00	\$1.56
McDowell	\$24,080.00	\$0.81
Mitchell	\$7,275.00	\$0.65
Orange	\$291,256.00	\$2.60
Pamlico	\$8,448.00	\$0.86
Randolph	\$81,964.00	\$0.86
Stanly	\$32,270.00	\$0.75
Swain	\$9,725.00	\$0.96
Union (not in CTCL report)	\$101,756.00	\$0.60
Wake	\$1,000,000.00	\$1.26
Warren	\$20,156.00	\$1.49
Watauga	\$33,739.00	\$0.75
Wilkes	\$36,449.00	\$0.83
Yancey	\$8,292.00	\$0.59
North Carolina – “Department of State Treasurer”	\$3,274,785.00	\$0.44

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About the Author



As Director of the Civitas Center for Public Integrity at the John Locke Foundation, Dr. Andy Jackson focuses on government compliance with the law and best practices, particularly regarding election policy and law. He researches and writes on public election

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Dr. Jackson holds a PhD in political science from the University of Nebraska-Lincoln. He has worked professionally for several political campaigns and organizations, including as the Iowa political coordinator for the Alan Keyes presidential campaign in 1996 and campaign manager for John Tedesco for Superintendent of Public Instruction in 2012. He has also worked as a columnist. His articles have appeared in several North Carolina, national and international publications, including the Korea Times, the Wall Street Journal, and Campaigns & Elections magazine.

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Our History

The John Locke Foundation was created in 1990 as an independent, nonprofit think tank that would work “for truth, for freedom, for the future of North Carolina.” The Foundation is named for John Locke (1632-1704), an English philosopher whose writings inspired Thomas Jefferson and the other Founders. The John Locke Foundation is a 501(c)(3) research institute and is funded by thousands of individuals, foundations and corporations. The Foundation does not accept government funds or contributions to influence its work or the outcomes of its research.

Our Vision

The John Locke Foundation envisions a North Carolina of responsible citizens, strong families, and successful communities committed to individual liberty and limited, constitutional government.

Our Mission

The John Locke Foundation employs research, journalism, and outreach programs to transform government through competition, innovation, personal freedom, and personal responsibility. Locke seeks a better balance between the public sector and private institutions of family, faith, community, and enterprise.



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