

STATE OF NORTH CAROLINA

COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
20 CVS 5035

NORTH CAROLINA STATE CONFERENCE)
OF THE NAACP, et al.,)

Plaintiffs,)

v.)

NORTH CAROLINA STATE BOARD OF)
ELECTIONS, et al.,)

Defendants,)

**AFFIDAVIT OF DONALD
MARK RITCHIE**

AFFIDAVIT OF DONALD MARK RITCHIE

I, Donald Mark Ritchie, do hereby say under oath the following:

1. I am of legal age and competent to provide this affidavit. All the information herein is based on my own personal knowledge unless otherwise indicated.
2. My background, qualifications, and professional affiliations are set forth in my curriculum vitae, which is attached as Exhibit A.
3. I was elected Secretary of State of Minnesota in 2006 and in this capacity served as the State's chief election officer from January 2007 until January 2015.
4. I served as the president of the National Association of Secretaries of State from January 2011 through July 2011.

5. In May 2017 I was appointed and continue to serve on the U. S. Election Assistance Commission's Board of Advisors by Ranking Member of the Senate Rules Committee, U.S. Senator Amy Klobuchar.
6. Minnesota has over 3 million registered voters, and during my tenure consistently led the nation in voter turnout.
7. I led a staff of 80 people in the Office of the Minnesota Secretary of State.
8. I oversaw the conduct of elections in eighty-seven Minnesota counties. Our most populous county, Hennepin, serves almost 800,000 voters. Our smallest county serves less than two thousand voters.

Conducting Elections with Hand-Marked Paper Ballots

9. All Minnesota counties conduct elections primarily with hand-marked paper ballots that are counted by scanning devices. Voters are provided pre-printed ballots that contain all contests and candidates for which the voter is eligible to vote. The voter indicates their selection by filling in an oval specific to each vote choice. Assistive ballot marking devices are available at each polling location for voters unable or unwilling to mark a paper ballot by hand, consistent with the Help America Vote Act of 2002 (HAVA) and the Americans with Disabilities Act.
10. Pre-printed ballots are delivered to each polling location before the election. Ballot inventory is carefully controlled and documented to ensure all ballots delivered, used, and not used, are accounted for.
11. For most voters that can mark a ballot by hand: the voter checks in, the pollworkers give them a paper ballot that is appropriate for their residence with the contest the voter is eligible to vote in and a privacy sleeve (a folder that enables the voter to carry the marked ballot to the scanner while protecting privacy).

12. If the voter chooses not to mark a ballot by hand, they are directed to an assistive ballot marking device.
13. If the voter chooses to mark a ballot by hand, they take the ballot to a table or voting booth that affords privacy as the voter marks their selections on the ballot.
14. When the voter is finished the voter brings the ballot in privacy sleeve to the scanner and feeds the ballot into the scanner.
15. If the voter has overvoted in any contest (marked more than the allowed number of selections which will nullify the vote), the scanner will reject the ballot. This satisfies requirements in HAVA that require a voting system to notify voters of any overvotes.
16. The voter then has the opportunity to spoil the ballot and receive and mark a new ballot.
17. As the ballots are scanned, they drop into a secure ballot box that is sealed at the end of the elections, enabling secure storage of the ballots.
18. Voted ballots, spoiled ballots and voter check-in totals are reconciled after each election. Ballots are secured and the chain of custody documented to protect the election records.
19. After each election, Minnesota conducts a post-election audit. The County Canvassing Board must choose at random precincts to be reviewed. The number of precincts reviewed depends on the size of the County.
20. During the audit, the paper ballots are counted by hand and compared to the machine counts to confirm the machines are counting votes accurately.
21. I can attest that elections can be conducted securely, accessibly, and auditably with hand-marked paper ballots as the principle voting method.
22. I have observed numerous post-election audits and can attest that ballots marked by hand can be routinely audited by hand-counts, securely, efficiently and accurately.

Conducting an Election Recount with Paper Ballots Marked by Hand

23. During my tenure, we conducted multiple election recounts. In 2008, I oversaw two state-wide recounts, including the second largest state-wide election recount to-date in the Senate contest between Norman Coleman and Al Franken with over 2.9 million votes cast.
24. In order to ensure that the election was decided correctly to reflect the will of the voters, a recount was conducted which manually counted every single ballot.
25. The final count established the winner by a margin of 312 votes.
26. The losing candidate challenged the recount to the Minnesota Supreme Court which upheld the recount results.
27. Recounting ballots primarily marked by hand provides observers the opportunity to witness directly that the vote counts directly reflect the voters' intent as expressed on the paper ballot, increasing election transparency and citizen confidence in our elections.
28. In my extensive experience, arguments that claim that elections conducted primarily with hand-marked paper ballots will lead to ballots with ambiguous, indeterminate marks that cannot establish the will of the voter are unfounded. In hand counting nearly 3 million ballots, the number of ballots that contained marks that could not be assigned was vanishingly small. In the Coleman-Franken recount I served on the bipartisan State Canvassing Board responsible for determining voter intent on contested ballots. Out of nearly 3 million ballots, we could not agree on the voter intent for *only 14 ballots*.

Feasibility of Switching to Handmarked Paper Ballots

29. Through my continued involvement with on the EAC Board of Advisors and other entities focused on election administration, I am familiar with the ExpressVote ballot marking device.

30. To the best of my knowledge, seven counties in North Carolina that use Election Systems & Software (ES&S) ExpressVote ballot marking devices as the principle voting method for all voters. Two Counties use the ExpressVote as the sole voting method for early voting, which will constitute a significant portion of cast votes.
31. The ballot on the ExpressVote is presented to the voter in digital form. Voters make choices on a touchscreen interface and the device prints out a ballot summary card which contains a barcode and a summary of the voters' selections in readable text. These ballots are then fed into ES&S's DS200 ballot scanner.
32. The DS200 can tabulate votes from both a traditional hand-marked paper ballot and the barcode printed on the summary card produced by the ExpressVote. This means all counties in North Carolina that use the ExpressVote can switch to hand-marked paper ballots and continue to count the ballots on the same tabulation device.
33. This also means that these counties can continue to use the same election management system which programs the scanners and aggregates and reports vote totals from the individual machines. This means county election workers will continue to use the same election management software and will not require additional training on new election management software.
34. All counties that have adopted ExpressVotes as the primary voting method also must print and process absentee, emergency and provisional ballots. This means that all these counties must develop paper ballot layouts for all ballot styles and print paper ballots of all styles. Switching to hand-marked paper ballots would not require any additional administrative effort to create the ballots; election administrators would merely have to increase the number of ballots printed.
35. Further, all polling locations that have adopted ballot marking devices as the primary method of voting must have emergency paper ballots on hand in case the ballot marking devices do not work. This means, not only must paper ballots be printed and delivered to all locations, but that all pollworkers

must also be trained in dispensing paper ballots to voters, instructing voters to mark a paper ballot and securing paper ballots.

36. In my estimation these counties will have little to no difficulty switching to hand-marked paper ballots as the primary voting method as the counties may continue to use the exact same tabulation equipment and also must already print paper ballots and train pollworkers to process paper ballots.

37. Further, requiring all voters to mark their ballots on a ballot marking devices introduces opportunities for the device to record the vote incorrectly. As the vote choices are recorded in an unreadable barcode, the voter is unable to verify if votes were recorded correctly.


38. In my experience, voting on a ballot marking device typically takes much longer than hand-marking a paper ballot, which will increase voting wait times and is likely to cause lines.

39. In addition, ballot marking devices require additional trucking and set-up, will require additional pollworkers to manage them (a critical issue as pollworker recruitment is down due to COVID-19), and will require all locations to have adequate electrical outlets capable of powering all the devices, making them more difficult to deploy and manage.

40. In my expert opinion, hand-marked paper ballots are far superior as the primary method of voting as it allows the voter to directly record their vote on a physical, durable paper ballot and are easier to manage.

I affirm, under the penalties for perjury, that the foregoing representations are true and accurate to the best of my knowledge.

This, the 20th day of July, 2020


[NAME]