



March 9, 2023

**VIA EMAIL**

Nebraska Attorney General's Office  
2115 State Capitol  
PO Box 98920  
Lincoln, NE 68509  
[ago.info.help@nebraska.gov](mailto:ago.info.help@nebraska.gov)

**Re: Public Records Statute Request**

Dear Record Custodian:

Pursuant to the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 et seq., American Oversight makes the following request for records.

**Requested Records**

American Oversight requests that your office produce the following records within four business days:

1. All electronic communications (including email messages, complete email chains, calendar invitations, and any attachments) between (A) Nebraska Attorney General Mike Hilgers, Former Attorney General Doug Peterson, Chief Deputy Attorney General Dave Bydalek, and Chief of Staff to the Attorney General Joshua Shasserre, and (B) any individual or anyone communicating on behalf of an organization listed below, including, but not limited to, anyone communicating from the listed email address(es) or an email address ending in the listed domain(s).
  - a) Consumers' Research (consumersresearch.org)
  - b) Consumers' Defense (consumersdefense.com)
  - c) Leonard Leo (leonard.leo@fed-soc.org or honestelections.org)
  - d) CRC Advisors (crcadvisors.com or crcpublicrelations.com)
  - e) State Financial Officers Foundation (sfof.com)
  - f) Free Enterprise Project or the National Center (nationalcenter.org)
  - g) Andy Puzder (ckr.com, JobCreatorsNetwork.com, Pudzer.com, andy@puzder.com)
  - h) Strive Asset Management (strive.com)
  - i) Heritage Foundation or Heritage Action for America (heritage.org, heritageaction.com)

Please note that American Oversight does not seek, and that this request specifically excludes, the initial mailing of news clips or other mass-distribution emails. However, subsequent communications forwarding such



emails are responsive to this request. In other words, for example, if Attorney General Mike Hilgers received a mass-distribution news clip email from Heritage Action for America, that initial email would not be responsive to this request. However, if Attorney General Mike Hilgers forwarded that email to another individual with his own commentary, that subsequent message would be responsive to this request and should be produced.

2. All electronic communications (including email messages, complete email chains, calendar invitations, and any attachments) between (a) Nebraska Attorney General Mike Hilgers, Former Attorney General Doug Peterson, Chief Deputy Attorney General Dave Bydalek, and Chief of Staff to the Attorney General Joshua Shasserre and (b) any individual outside the Nebraska Attorney General's office regarding drafting the report titled, "The Endgame Of ESG: Why It Matters To Policymakers And Enforcers."<sup>1</sup>

For both parts of this request, please provide all responsive records from August 6, 2022, through the date the search is conducted.

Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fee. Pursuant to Neb. Rev. Stat. § 84-712(3)(b), we further request that any fees are limited to the actual costs and exclude fees for search time in excess of four hours.

### **Guidance Regarding the Search & Processing of Requested Records**

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

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics. For instance, if the request seeks "communications," please search all locations likely to contain communications, including relevant hard-copy files, correspondence files, appropriate locations on hard drives and shared drives, emails, text messages or other direct messaging systems (such as iMessage, WhatsApp, Signal, or Twitter direct messages), voicemail messages, instant messaging systems such as Lync or ICQ, and shared messages systems such as Slack.
- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all

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<sup>1</sup> The Endgame of ESG: Why It Matters To Policymakers And Enforcers, Nebraska Department of Justice, (Dec. 2022), available at <https://ago.nebraska.gov/sites/ago.nebraska.gov/files/doc/ESG%2012%3A9%3A22.pdf>

prior messages sent or received in that email chain, as well as any attachments to the email.

- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages.
- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records.<sup>2</sup> If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

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

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

### **Conclusion**

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

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<sup>2</sup> Neb. Rev. Stat. § 84-712.06.

website and promotes their availability on social media platforms, such as Facebook and Twitter.<sup>3</sup>

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not understand any part of this request, please contact Emma Lewis at [records@americanoversight.org](mailto:records@americanoversight.org) or (202) 919-6303

Sincerely,

/s/ Emma Lewis  
Emma Lewis  
on behalf of  
American Oversight

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<sup>3</sup> American Oversight currently has approximately 16,000 followers on Facebook and 112,800 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Feb. 27, 2023); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Feb. 27, 2023).