



**Testimony of
J. Christian Adams**

**Before the North Carolina House Oversight and
Reform Committee**

June 22, 2023

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Chairmen Johnson and Warren, thank you for the invitation to submit written testimony for today's hearing.

My name is J. Christian Adams. I am the President for the Public Interest Legal Foundation, a non-partisan, nonprofit law firm dedicated to election integrity. Before coming to the Foundation, I am President and General Counsel for the Public Interest Legal Foundation, a non-partisan charity devoted to promoting election integrity and preserving the constitutional decentralization of power so that states may administer their own elections. I also served as an attorney in the Voting Section at the Department of Justice.

The National Voter Registration Act of 1993 (NVRA), more commonly known as "Motor Voter," is showing signs of wear. You do not have to look deep into North Carolina's election records archive to see examples of this fact, assuming a federal lawsuit isn't necessary to begin research.¹ Yes, modernizing Motor Voter is a Congressional duty but this General Assembly can do its part in our federated system to demonstrate local fixes for others to follow. It is for this reason that the Public Interest Legal Foundation today offers general support for S747.²

Noncitizen Registration List Maintenance

Before I go further, I must note that core elements of my testimony wouldn't be possible without a federal lawsuit filed by my organization which was resolved at the U.S. Fourth Circuit Court of Appeals. The current administration previously believed that the records demonstrating the good works of the North Carolina State Board of Elections under Governors Bev Purdue and Pat McCrory to identify noncitizen registrants was not for public review. Thankfully, S747 promises to make similar cases like ours a thing of the past in North Carolina.

¹ *PILF v. NCSBE*, Case No. 5:19-cv-00248 (E.D. N.C.).

² <https://webservices.ncleg.gov/ViewDocSiteFile/80054>

From roughly 2011 to 2016, the North Carolina State Board of Elections engaged in programs to identify registered voters who may not yet be naturalized U.S. citizens. The process was straightforward: the full voter roll was compared against DMV customer records to positively matched noncitizen driver licenses to active voter registrations. In 2011, the North Carolina State Board of Elections settled on more than 600 registrants requiring further study between county boards and the individuals to ultimately determine eligibility.

In 2013, federal executive actions for the Deferred Action for Childhood Arrivals or DACA program threatened new stresses on the Motor Voter system in North Carolina. That February, the North Carolina State Board of Elections wrote to the NC Department of Transportation seeking assurances that DACA recipients seeking driver licenses would be blocked from voter registration screenings. The North Carolina State Board of Elections then revived its 2011 noncitizen study concept with a federal enhancement: data held within DHS's System for Alien Verification of Entitlements (SAVE) would be used to differentiate between naturalized voter registrants and those who still held foreign citizenship. The result was a list of 1,400 registrants who did not appear to be U.S. citizens and would need to be challenged at polls or during absentee ballot processing for the 2014 Midterms.

The Obama Justice Department twice underscored the necessity of this kind of noncitizen maintenance program. In 2011, the Department precleared the pilot procedure.³ In 2013, the DOJ helped broker the data sharing arrangement between North Carolina and DHS, again as part of preclearance.⁴ Today, North Carolina can use tools like seen in S747 to protect more immigrants from the pitfalls existing in an aging Motor Voter system.

³ <https://publicinterestlegal.org/wp-content/uploads/2023/06/Ex-3-Preclearance-2011.pdf>

⁴ <https://publicinterestlegal.org/wp-content/uploads/2023/06/Ex-4-Preclear-Request-2013.pdf>

S747 establishes dedicated voter list maintenance cancellation protocols to remove noncitizens. Leveraging federal and state data to generate eligibility reports for county boards uses the best of the previous noncitizen study methodologies without the breakneck pacing of the past. The bill allows questions of eligibility to be handled in county election offices or by correspondence – not necessarily at polling place check-in tables.

Across the nation, states often leave the burden to remove noncitizens from voter registration rolls on noncitizens. The Public Interest Legal Foundation has collected decades of cancellation records involving noncitizens.⁵ The stories tend to blend along the same lines: an immigrant gets accidentally registered; the immigrant seeks naturalization; the immigration officer spots a voter registration record; and finally, the immigrant is sent scrambling to show documentary proof that their voting record is cancelled at the risk of denied naturalization and even deportation.⁶

S747 promises to humanely disrupt this pattern by duly cancelling these registrations before naturalization applications fall into danger. These disruptions would generate the consistent, documentary proof required for immigration authorities across North Carolina.

Finally, current language in S747 ensures that all above procedures are kept within the public record and stored in a way that lawsuits, attorneys, or specialized researchers are no longer needed to access the information.

The North Carolina State Board of Elections under previous administrations has a solid record of protecting immigrants from many of the pitfalls inherent to the aging NVRA

⁵ <https://publicinterestlegal.org/wp-content/uploads/2023/06/OPENING-PAGES-NC-cancel-request-packet-2012.pdf>

⁶ NBC News; Grandmother Deported for Voter Fraud Leaves U.S. in Tears (August 5, 2017), <https://www.nbcnews.com/politics/immigration/grandmother-deported-voter-fraud-leaves-u-s-tears-n789766>

framework. S747 takes well-earned lessons and applies them to the General Statutes for the benefit of *all* North Carolina residents.

Deceased Registrant List Maintenance Reforms

For nearly five years, the Public Interest Legal Foundation has performed audits of North Carolina’s statewide voter registration roll to reasonably account for lingering deceased registrants. During this period, the Foundation positively matched more than 10,000 registrants against the Social Security Death Index.⁷ In 2022, the Foundation raised awareness to a World War II veteran who was laid to rest in 1997 but was still registered to vote in the state.⁸

The Foundation generally finds that lacking data resource allocation and relaxed deadlines can allow a voter roll to retain deceased registrants for unreasonable periods. S747 rightly confronts this problem by setting weekly data transfer requirements between the NC Department of Health and Human Services and the State Board of Elections. The bill also creates a process efficiency for near relatives and/or estate representatives to alert counties to a death – also with weekly deadlines to officially act.

Absentee Ballot Transmission Deadlines

S747 also would adjust absentee ballot transmission deadlines for statewide primary and general elections to require that ballots be returned for counting by Election Day. This reform brings North Carolina’s absentee ballot framework into alignment with most U.S. states.⁹

⁷ PILF; Critical Condition: America’s Voter Rolls Filled with Errors, Dead Voters, Duplicate Registrants (September 2020), <https://publicinterestlegal.org/reports/critical-condition-american-voter-rolls-filled-with-errors-dead-voters-and-duplicate-registrations/>

⁸ PILF; North Carolina: Tens of Thousands of Deceased and Duplicative Registrants Found After 2020 Election (March 2022), <https://publicinterestlegal.org/reports/north-carolina-tens-of-thousands-of-deceased-and-duplicative-voter-registrations-found-after-2020-election/>

⁹ PILF; Worst to First: Why Election Day Still Means Something in Florida (May 2023), <https://publicinterestlegal.org/reports/worst-to-first-why-election-day-still-means-something-in-florida/>

Election Days creeping into weeks and months naturally damage the general public's trust in the process. As this body continues to study the need for reforming absentee voting deadlines, it would be wise to review the changes implemented in Florida. The Sunshine State has struck a fair balance between no-excuse absentee voting, hard Election Day return deadlines, and early processing of ballots by county administrators with attached security protections. In 2022, the Associated Press was able to call statewide and all Florida Congressional contests within two hours of polls closing.¹⁰ With S747 in place, North Carolina could best Florida in a friendly contest of speedy and accurate vote counting in the future.

Thank you for the invitation to submit testimony.

Respectfully submitted,

J. Christian Adams

¹⁰ Ibid.