



VIA EMAIL

July 7, 2025

ATTN: Office of Partnership and Engagement
The Hon. Kristi Noem
MS 0385 Department of Homeland Security
2707 Martin Luther King Jr Ave SE
Washington, D.C. 20528-0385

RE: SAVE Optimization

Dear Secretary Noem:

On behalf of the Public Interest Legal Foundation, I write to commend your Department's leadership in continuing the work of your predecessors to improve access and optimize SAVE for voter registration list maintenance. The Public Interest Legal Foundation ("Foundation") is a nonpartisan, nonprofit, public-interest law firm dedicated exclusively to election integrity.

Improvements to user access and overall efficiency for SAVE is more than a common-sense, 80 percent issue. These also serve a critical humanitarian function for immigrants waiting their turn for naturalization. Over the last decade, the Foundation studied voter registration records belonging to foreign nationals across the nation. In every jurisdiction and disclosed sampling, the following trends demonstrated:

1. The vast majority became registered at the prompting of others – usually by state DMV employees or street canvassers;
2. Aliens mostly complained that foreign language barriers experienced in DMVs or on the street caused them to not understand what they were signing; and,
3. Those who were found to have voted usually thought that since their application was accepted and a voter ID card arrived in their mail, they believed they were deemed eligible to cast a ballot.

The truthfulness of these aliens' claims is practically irrelevant because the National Voter Registration Act of 1993 does not require election officials to verify eligibility before approving voter applications. This system sets immigrants up for failure, and those opposing SAVE improvements share in the blame.

If SAVE was never made available for voter list maintenance, states would have no credible data to rely upon for assessing citizenship eligibility, even though federal law doesn't require them to try. Critics of these recent advancements ought to be reminded of how North Carolina election officials worked with the Obama Administration to lay the groundwork for SAVE's election integrity features seen today.

- In 2011, the Obama Justice Department under the leadership of Attorney General Eric Holder precleared North Carolina's request to perform a study of its voter roll using databases containing immigrant status codes and process them for removal.
- Later in 2011, the North Carolina State Board of Elections applied for SAVE access, citing voter list maintenance as its intended use. North Carolina was denied.
- In 2012, then-USCIS Director Alejandro Mayorkas oversaw changes to SAVE access regulations, specifically allowing for queries as part of voter list maintenance.
- In 2013, North Carolina state election officials communicated concerns that Deferred Action for Childhood Arrivals (DACA) could lead to confusion at DMVs and more alien registrants.
- Later in 2013, North Carolina returned to the Holder DOJ seeking preclearance on regular use of SAVE. The document memorializes DOJ's role in guiding North Carolina through the SAVE approval process prior to formally seeking preclearance.
- In 2014, North Carolina successfully identifies more than 1,400 apparent aliens before Election Day. The State quickly developed a training procedure for affected counties to follow if any listed alien appeared in a polling place to protect them from casting an illegal ballot. After the election, list maintenance was completed for those proven to still be unnaturalized.

Thanks to then-USCIS Director Mayorkas' action, the North Carolina model and best practices began its slow spread over the past decade. The Foundation knows this because, when asked, we have advised state election offices on the model. We further wish to share an insider account provided by South Dakota Secretary of State Monae Johnson's office from 2024, which details how SAVE was instrumental in reversing the damage done by a DMV glitch that automatically registered aliens to vote. SAVE is a critical tool to help immigrants – especially those who are unaware when DMV clerks send their data to the local voter roll.

The April 2025 SAVE overhauls¹ are taking an in-demand system that few state election offices could practically use to a tool that should soon be as commonly relied upon as the Social Security Death Index. The SSDI was opened to batch searches and full SSN-based query terms long ago. However, the Department's work on this score is not done. Developing a more user-

¹ DHS Release; DHS, USCIS, DOGE Overhaul SAVE Database (April 22, 2025), <https://www.dhs.gov/news/2025/04/22/dhs-uscis-doge-overhaul-systematic-alien-verification-entitlements-database>

friendly interface as your office described ought to be treated as a permanent campaign and not just a task to complete.

The Public Interest Legal Foundation commends your leadership in bettering SAVE for the many states who have waited years to call upon this resource. Thank you for your attention to this matter.

Sincerely,



Logan Churchwell
Research Director
Public Interest Legal Foundation

Enclosures

North Carolina's preclearance and SAVE documentation (2011-2014)
2024 Letter from South Dakota Secretary of State re SAVE use

Feaser, Jerry

From: [REDACTED]
Sent: Thursday, March 23, 2017 1:14 PM
To: Feaser, Jerry
Subject: Re: Dauphin County Bureau of Registration and Elections

Thank you Mr Jerry for the quick response my name is [REDACTED] in 2005 I went to one of your [REDACTED] and with your computer system and add to that the lack of English since it's not my primary language you sent me a voter registration what I ignored it for the 3 years thinking was by mistake and it keeps coming till the 2008 elections and with the both parties knocking my doors to go vote I did and in 2010 my green card was revoked for that reason. my life become so difficult I have a family and kids .my dad past away and couldn't go to his funeral because I was scared not to joint my family back here.the immigration office needs prove from your office telling the truth about this incident and explain that it happened to other people and not there fault in case they voted and that the [REDACTED] take the real responsibility for that. sorry Sir for bothering you but a future of my whole family in your hand all my family are citizens and I am supporting my kids what's you think will happen to all of us in case I was deported I lived for the last 7 years in hell can't work legally can't open my own business. Can't travel I am lost and you are my only hope to convince the immigration office that I am innocent and I never pretend to be a citizen to vote thank you and God bless .

From: Feaser, Jerry [REDACTED]@dauphinc.org>
Sent: Thursday, March 23, 2017 9:54:30 AM
To: [REDACTED]
Subject: Dauphin County Bureau of Registration and Elections

I understand that you have a question regarding your voter registration status. If you could, please e-mail me the situation and I will get back to you with a resolution.

Above: Collected from PA Dept of State



ENCLOSED DOCUMENTS



U.S. Department of Justice

Civil Rights Division

TCH:RSB:RPL:LJM:tst:maf
DJ 166-012-3
2011-3092

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

December 23, 2011

Mr. Gary O. Bartlett
Executive Director
State Board of Elections
P.O. Box 27255
Raleigh, North Carolina 27603

Dear Mr. Bartlett:

This refers to the establishment of procedures to verify the citizenship status of voter registration applicants who currently hold a Department of Motor Vehicles-issued legal presence driver's license or identification card, which is issued only to those individuals who submit documentation indicating that they are not a United States citizen at the time of their application; the voter registration procedure in the DMV database that precludes such individuals from registering to vote; the procedures for conducting a one-time verification of the citizenship status of those individuals who hold legal presence identification; and the one-time removal of registered voters, who hold a legal presence driver's license or identification card and have not responded to the state's written inquiry regarding their current citizenship status; for the State of North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your response to our October 11, 2011, request for additional information on October 24, 2011.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

Sincerely,

T. Christian Herren, Jr.
Chief, Voting Section

Received

DEC 29 2011

Campaign Finance



STATE BOARD OF ELECTIONS

6400 Mail Service Center • Raleigh, North Carolina 27699-6400

GARY O. BARTLETT
Executive Director

February 18, 2013

MAILING ADDRESS:
P.O. BOX 27255
RALEIGH, NC 27611-7255

Mr. James L. Forte, Commissioner
Ms. Barbara Webb, Assistant Director of Driver Services
North Carolina Division of Motor Vehicles
3110 Mail Service Center
Raleigh, NC 27699-3110

RE: Inapplicability of Voter Registration Services to Non-United States Citizens

Dear Mr. Forte and Ms. Webb,

In light of the recent announcement that the N.C. Department of Transportation (NCDOT) will soon begin issuing driver licenses and identification cards to applicants qualified under the federal Deferred Action for Childhood Arrivals (DACA) program, our office would like to make certain that voter registration services will not be offered to these individuals as part of this program. Only United States citizens are qualified to register to vote and vote in North Carolina (see G.S. § 163-55) and North Carolina expressly instructs the DMV representative taking an application for voter registration at the DMV to "inform the applicant that it is a felony for a person who is not a citizen of the United States to apply to register to vote" (see G.S. § 163-82.19). It is our understanding that the voter registration module in the DMV's computerized application system is currently disabled if a customer is identified as a lawful presence customer, or non-United States citizen. This inapplicability of voter registration services should be extended to DACA customers as well.

At your earliest convenience, we respectfully ask that you share with us your efforts to ensure that these statutory mandates will be met when NCDOT begins issuance of licenses and identification cards to individuals who qualify for these documents under DACA.

Sincerely,

Gary O. Bartlett
Gary O. Bartlett

July 20, 2012

U.S. Citizenship and Immigration Services
SAVE Program
Verification Division
111 Massachusetts Ave. N.W.
Washington, D.C. 20529-2620

Re: Second Application for SAVE Program

Dear SAVE Program,

In April 2011, this agency applied for use of the SAVE program. We were denied May 10, 2011 by Cheryl Grant and the denial e-mail is attached. We now understand that Alejandro Mayorkas, Director of U.S. Citizenship and Immigration Services has agreed that state election offices are entitled to access to the SAVE program. Based upon that reversal we would hope approval for this agency to access the SAVE program. We understand that upon approval, there will be terms and conditions and an agreement as to the costs of the service.

Organization Name North Carolina State Board of Elections. It is a state agency.

Contact Information Don Wright, General Counsel
PO Box 27255, Raleigh, N.C. 27611-7225
(919) 715-5333 (direct line)
don.wright@ncsbe.gov

Benefit/License The North Carolina State Board of Elections operates the statewide voter registration database which allows citizens to register to vote.

Legal Authority I This agency supervises county boards of elections who register qualified U.S. citizens as voters using the official State voter registration system operated by the North Carolina State Board of Elections.

North Carolina General Statutes 163-82.10 (a)

North Carolina General Statutes 163-82.11

North Carolina General Statutes 163-82.12

Legal Authority II

This agency is mandated that only qualified U.S citizens register as voters using the State voter registration system operated by the North Carolina State Board of Elections. There are required crosschecks of voters with the N.C. Department of Motor Vehicles (DMV).

18 USC 611

42 USC 15483 (a)(5) and(b)(4)

North Carolina General Statutes 163-55

North Carolina General Statutes 163-82.4(d)

North Carolina General Statutes 163-275 (13)(18)

North Carolina General Statutes 163-278

Intent of Use

The North Carolina DMV notes all drivers licenses issued to non-citizens as “legal presence”. When a crosscheck of North Carolina DMV data with North Carolina Board of Elections data show a drivers license used as the basis for registering to vote was issued on a “ legal presence” basis, we plan to use the SAVE Program to confirm the voter involved is a non-citizen based upon the SAVE data. Also SAVE will be used as needed in investigations of non-citizens unlawfully registering to vote, to see if they have become naturalized citizens since the non-citizen status they had at the time they obtained a legal presence drivers license. In addition, we will use SAVE data to verify non-citizen status or subsequent naturalization of persons claiming non-citizen status when using non-citizenship as an excuse to be relived from jury duty. We will also use the SAVE data whenever needed in the administration of voter registration where there are issues of citizenship that can aided by SAVE data.

Thank you for your consideration of our application.

Sincerely,

Gary O. Bartlett
Executive Director

CC: Director Alejandro Mayorkas

CC: Cheryl Grant (by e-mail)

March 11, 2013

Chief of Voting Section
Civil Rights Division
Room 7254-NWB
Department of Justice
1800 G. St., NW
Washington, D.C. 20006

SECTION 5 SUBMISSION
EXPEDITED REQUEST

RE: Submission under Section 5 of the Voting Rights Act for Use of SAVE System to Confirm Non-Citizen Registrants/Voters and their Removal

Dear Voting Rights Section:

Enclosed is the preclearance in 2011-3092. That submission dealt with the removal of non-citizen voters from North Carolina voter rolls as a result of an early 2011 crosscheck of "legal presence" non-citizen NC Drivers License holders with our voter registration database. For your information, we had no further objections or request for hearings from those voters that we failed to hear from as to their removal from the voter rolls. That would indicate that these voters no longer resided at their North Carolina voter registration address or, knowing their unlawful status as non-citizen voters, remained silent as to our communication with them and their removal as voters.

Pursuant to the USDOJ suggestion, we applied to the U.S.C.I.S. SAVE program to obtain access to their database which could allow confirmation of the non-citizenship of a person if they were in the database. Our requests were initially rejected by SAVE until, the U.S. C.I.S. reversed its position last year and allowed voter registration inquiry as an approved use of the SAVE program.

We have now reached an agreement with the SAVE program as to the terms and conditions of the use of SAVE as to confirming the non-citizen status of certain suspected voters. That agreement and procedure is now being submitted for preclearance from your office. Following is the procedure and associated actions as to the removal/ determination of non-citizens suspected of being registered to vote or voting.

1. We obtain on regular basis information from the N.C. Department of Motor Vehicles (DMV) information on persons who are issued drivers licenses or State ID in a status of a non-citizen. We also may obtain credible information from the public and other sources as to a suspected non-citizen status of a voter. See enclosed March 11, 2013 e-mail from a

U.S.C.I.S. fraud investigator as an example of such other credible information we would follow up on.

2. In regards to the regular DMV data check, we cross check that data with our current voter registration rolls and create a list of possible non-citizens that are registered to vote.
3. Using the alien ID data number from DMV records or another credible source, we attempt confirm the non-citizen status of the suspected voter with SAVE.
4. Whether we have one source of non-citizen status through DMV, or two through DMV and SAVE conformation, we contact the suspected voter with the enclosed template letter and "Admission/Denial Form". Both this template letter and form have been extensively edited by both our agency and SAVE and are approved by both our agencies.
5. If we receive back from the registered person the "Admission/Denial Form" admitting they are not a citizen, we will remove them from the voter rolls immediately.
6. If we receive back from them the form or other correspondence that assert citizenship such as naturalization papers, we will confirm again with SAVE using that provided information and upon confirmation of citizenship close the matter leaving the citizen on the voter registration roll. If the alleged citizenship data is not confirmed by SAVE, we will continue our investigation into the citizenship status of the person.
7. Further action as to the investigation and removal of suspected non-citizens who are registered to vote or a request by the suspected voter for a hearing, will be by the means of a voter challenge procedure under Article 8 of the North Carolina General Statutes. That article is enclosed. This will allow the suspected non-citizen voter both due process and a hearing on the issue of their citizenship. It will also allow the suspected non-citizen voter and appeal to the Superior Court, if they so choose.
8. Upon a finding of non-citizenship in a challenge hearing, the suspected voter will be removed from the voter rolls, unless the decision of the hearing is appealed. Removal will be stayed, pending the final determination of the appeal by the Superior Court. Upon confirmation of non-citizenship status by the Superior Court, the voter will be removed from the voter rolls. There will be no stay of the removal pending an appeal of the Superior Court ruling to the N.C. Court of Appeals unless there is a court order issuing a stay.
9. Upon a finding by the Superior Court of citizenship, this agency and a county board of elections reserve the right to appeal that finding to the N.C. Court of Appeals. If we do not appeal, there will no action to remove the voter based upon non-citizenship.
10. Our use of the SAVE system will be based upon the draft Memorandum of Agreement which is enclosed. This draft agreement has been extensively edited by both our agency and SAVE and is approved by both our agencies.

The SAVE program desires preclearance of the above process and enclosed forms prior to the execution of the Memorandum of Understanding and implementing the above process.

The name, title, address, telephone number, facsimile number, and electronic mail address of the person making the submission is

Gary O. Bartlett
Executive Director

North Carolina State Board of Elections
P.O. Box 27255
Raleigh, North Carolina 27611-7255
Telephone: 919-733-7173
Facsimile: 919-715-0135
Email: gary.bartlett@ncsbe.gov

Additional contact:

Don Wright, General Counsel
North Carolina State Board of Elections
Telephone: 919-715-5333
Email: don.wright@ncsbe.gov

- (a) This submission is made by the North Carolina State Board of Elections.
- (b) The date on which these changes are effective upon preclearance.
- (c) These provisions apply state wide.
- (d) It is not anticipated, nor is it intended, that these provisions will have an adverse effect upon members of racial or language minority groups. Citizenship status is race neutral and a non-citizen being registered to vote is not in a protected class, but is in a possible criminal status.
- (e) There is no pending litigation concerning these provisions.
- (f) This is not a redistricting or an annexation.
- (g) The undersigned knows of no other matters relating to these provisions.

Please direct any further questions or inquiries to General Counsel, Don Wright. Thank you for considering this submission.

Sincerely,

Don Wright
General Counsel

Cc; WilliamWard, SAVE Program



South Dakota Secretary of State

Monae L. Johnson
Secretary of State

Thomas J. Deadrick
Deputy Secretary of State

VIA EMAIL

October 22, 2024

Logan Churchwell
Research Director, Public Interest Legal Foundation
107 S. West Street, Suite 700
Alexandria, Virginia 22314

[lchurchwell@publicinterestlegal.org](mailto:churchwell@publicinterestlegal.org)

Dear Mr. Churchwell:

Your October 9th correspondence requesting documents will be responded to as an open records request. See SDCL Ch. 1-27. This response satisfies the time requirements of SDCL 1-27-37. Requested records will be assembled and reviewed for information subject to disclosure under the provisions of SDCL Ch. 1-27, federal voter registration laws, and federal driver's licensing laws. This Office anticipates being able to fully respond to your written record request within 30 days from today. Without waiving this Office's obligation to determine whether information is subject to disclosure, this Office would like to provide you additional information on the State's compliance with the NVRA.

The Department of Public Safety ("DPS") was recently made aware of a situation in which a non-U.S. citizen had been inadvertently registered to vote when that individual applied for a driver's license. DPS looked into that applicant to determine the cause of this error. DPS examined a copy of the driver licensing application and discovered that the applicant had marked "no" indicating their own non-U.S. citizenship status but then failed to check the box to opt-out of automatic voter registration. As such, the driver licensing applicant was erroneously automatically registered to vote despite their own admission of having no legal standing to do so. Based upon this discovery, a review occurred which resulted in identifying 274 separate non-U.S. citizens as being impacted by the inadvertent error, but the review did not end there.

DPS continued an individualized review of each of the driver licensing applications to ensure each had disclosed their non-U.S. citizen status. In each instance, it was

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WWW.SDSOS.GOV | SDSOS@STATE.SD.US

discovered that the non-U.S. citizen applicant provided all the proper documentation to show their legal status as a non-U.S. citizen but were subsequently automatically registered to vote. Then to ensure that non-citizenship status was the most accurate status of each applicant, DPS ran each individual through the SAVE database on two separate occasions: first, upon discovery of the error about two weeks ago and then again before the individuals were removed from the voter rolls on October 7, 2024.

Then SOS made its own review of each impacted individual. This individualized review identified that one of the 274 individuals had since become a naturalized citizen. As a result, this person was correctly retained on the voter rolls. Our process not only identified inaccuracies, but it also accounted for changes in citizenship status. The remaining 273 individuals remained non-U.S. citizens, and ultimately on October 7, 2024, they were correctly and lawfully removed from the voter rolls.

The actions undertaken by this Office align with case law. For instance, in *Arcia v. Florida*, the Court differentiated between “systematic” and “non- systematic” removals. *Arcia v. Florida Sec’y of State*, 772 F.3d 1335, 1345 (11th Cir.2014). It concluded that Florida’s approach was indeed “systematic” because it did not rely on individualized information or investigations when determining which names to remove from the voter registry. The Court went on to say that states are not barred “from investigating potential non-citizens and removing them on the basis of individualized information, even within the 90–day window.” *Id.* at 1348. Therefore, individuals can be removed from the voter rolls at any time before an election provided that these removals are based on rigorous, individualized review. *Id.* at 1346–48. The Court emphasized that “individualized removals do not present the same risks as systematic removals because they are based on individual correspondence or *rigorous individualized inquiry*, leading to a smaller chance for mistakes” *Id.* at 1346–48 (emphasis added).

Distinguishable from Florida’s systematic removal, South Dakota’s DPS identified one driver’s license application who indicated “no” regarding their U.S. citizenship and yet were still registered to vote due to error. From there, South Dakota’s process involved several employees who meticulously reviewed each application and supporting documentation to identify self-disclosed non-U.S. citizens. They then cross-checked these individuals to see if they were inadvertently registered to vote. This approach led to the identification of 274 non-U.S. citizens. Then, each of these cases was further verified twice through the SAVE database to confirm current citizenship status, which led to the identification and removal of 273 non-U.S. citizens. This entire process exemplifies the “individualized information or investigation” that the *Arcia* court described as necessary for determining ineligible voters and not in violation of the Quiet Period Provision of the NVRA. Similarly, North Carolina was found to have violated this provision because it relied on a single source of information, contrasted by South Dakota’s reliance on multiple records and searches and the SAVE database. See *N.C. State Conf. of NAACP v. Bipartisan Bd. Of Elections & Ethics Enft*, No. 1:16-CV-1274, 2018 WL 3748172, at *7-9 (M.D.N.C. Aug. 7, 2018) (finding cancellation of 374 voters’ registrations’ based on a single source of information “lacked the individualized inquiry necessary to survive the

NVRA's prohibition on systematic removals within 90 days of a federal general election).

Our careful approach underscores our commitment to maintaining the integrity of the voter rolls while ensuring that eligible citizens are not inadvertently removed. Each step taken in this process reflects our dedication to conducting individualized assessments rather than relying on systematic removals, ultimately leading to the most accurate outcomes and election integrity for the people of South Dakota.

Notification letters have been sent to the 273 individuals who were removed from the voter rolls. These letters explain the situation and provide guidance on how to re-register or dispute the finding if they believe they are now eligible.

I trust that this response fully addresses your October 9, 2024, correspondence.

Sincerely,



Thomas J. Deadrick
Deputy Secretary of State