



NORTH CAROLINA

State Board of Elections

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KIM WESTBROOK STRACH
Executive Director

February 6, 2015

VIA EMAIL & U.S. MAIL

The Honorable Chris Millis
300 N. Salisbury Street, Room 609
Raleigh, NC 27603-5925
Chris.Millis@ncleg.net

RE: Results of a Citizenship Audit conducted by the State Board of Elections
prior to the 2014 General Election

Dear Representative Millis:

This letter responds to your request for a summary of steps taken by the State Board of Elections in response to certain citizenship data provided by the N.C. Division of Motor Vehicles (DMV), U.S. Department of Homeland Security (DHS), and U.S. Citizenship and Immigration Services (USCIS) ahead of the 2014 General Election. We have appreciated your patience.

The State Board of Elections is committed to using available tools to conduct ongoing audits of North Carolina's voter rolls. We pursue this goal principally by establishing data-sharing relationships with governmental agencies both inside and outside of North Carolina. Among other eligibility criteria, the State Board undertakes efforts to monitor the citizenship status of current registrants.

It is unlawful for a noncitizen to register or to vote in North Carolina.¹ However, auditing citizenship status poses significant challenges, especially because many foreign-born residents acquire citizenship.² No national database comprehensively tracks citizenship status, and noncitizens may obtain a valid Social Security number,³ a North Carolina Driver's License,⁴ or other documents sufficient to establish proof of identity or residence for purposes of voting.⁵

¹ See, e.g., 18 U.S.C. § 611; N.C. Const. art. VI, § 1; N.C. GEN. STAT. §§ 163-55(a), 275(18).

² Foreign-born individuals comprise more than 12% of the total U.S. population, with nearly half of them naturalized. See U.S. CENSUS BUREAU, *American Community Survey 5-Year Estimates: Selected Characteristics of the Native and Foreign-born Populations*, <http://1.usa.gov/1zRUlkn>.

³ See, e.g., SOCIAL SECURITY ADMINISTRATION, *Social Security Numbers for Noncitizens (August 2013)*, <http://1.usa.gov/1CybNe4>.

⁴ See e.g., NC GEN. STAT. § 20-7(s) (providing that DMV issue driver's licenses to otherwise eligible individuals who presents valid documentation demonstrating their legal presence in the United States).

⁵ Pending the implementation of a photo identification requirement under the Voter Information Verification Act (S.L. 2013-381), it is presently sufficient for otherwise unverified voters to prove their

Procedures by which our Agency identifies and removes ineligible voters from the rolls have evolved as the State Board has gained access to additional data. In 2011, the State Board, under prior leadership, relied wholly on DMV data to remove 331 registrants who had presented documents establishing their legal presence – but not citizenship – when the registrant first obtained a driver’s license or state identification card.⁶ In 2013, the State Board executed an agreement with USCIS and DHS for use of their SAVE Program, which allows users to verify the citizenship and immigration status of certain registered voters for whom DMV has provided alien identification numbers.⁷ Because DMV is the State Board’s sole source of alien identification information, we are able to run SAVE queries on individuals who at one point presented legal presence documents at DMV. We have no method by which to verify the citizenship status of undocumented individuals.⁸

Even when DMV provides data sufficient to run SAVE queries, the possibility remains that results are outdated. The vast majority of DMV customers who present legal presence documents turn out to be citizens when run through the SAVE database. When SAVE identifies an individual as a non-citizen, it remains possible that the individual was naturalized after the last update of their SAVE record. It is also possible that an individual SAVE flags as a noncitizen had in fact acquired citizenship automatically as a minor when his/her parents became naturalized – in which case a minor receives citizenship documents only if specifically requested.⁹

2014 Citizenship Audit

When State Board staff received access to the SAVE database, they began manually checking the citizenship status of more than 10,000 individuals who provided DMV with legal presence documents and who had matched the record of a currently

identity by presenting a current utility bill, bank statement, or other government document. *See* NC GEN. STAT. §163-166.12.

⁶ This procedure received pre-clearance from the U.S. Department of Justice Civil Rights Division via correspondence dated December 23, 2011.

⁷ The SAVE platform requires that users provide substantial identifying information in order to conduct a search, including alien identification number in order to conduct a search including first name, last name, alien identification number, and non-citizen identification document type, *e.g.* a green card, permanent resident card, etc. *See, e.g.*, Memorandum of Agreement Between the Department of Homeland Security, U.S. Citizenship and Immigration Services, and North Carolina State Board of Elections (executed September 10, 2013). The State Board of Elections obtains name and alien identification numbers from the DMV. Accordingly, our Agency is able to check only those registered voters who presented legal presence documents to the DMV.

⁸ While many employers make use of the E-Verify platform managed by USCIS to confirm eligibility to work, querying that system requires a full nine-digit Social Security number. *See, e.g.*, U.S. CITIZENSHIP AND IMMIGRATION SERVICES, *E-Verify User Manual for Employers (June 2014)*, 7, <http://1.usa.gov/1zXV3Lh>. Those who choose to provide optional Social Security information on the Voter Registration Application only provide the last four digits. The State Board of Elections does not presently possess nine-digit Social Security numbers for registered voters.

⁹ *See, e.g.*, U.S. CITIZENSHIP AND IMMIGRATION SERVICES, *General Policies and Procedures*, vol. 12, ch. 4 “Automatic Acquisition of Citizenship after Birth,” <http://1.usa.gov/16kKtlk> (“A person who automatically obtains citizenship is not required to file an Application for Certificate of Citizenship”).

registered voter. This process moved slowly, as SAVE does not allow for batched-data queries.¹⁰ In October 2014, in-house technical staff developed a programming tool that allowed our Agency to automate individual queries run through the SAVE web platform. In this way, staff reduced to days what had taken many months of manual data entry. Automation also allowed staff to double-check results and filter for updated citizenship status. Staff still manually reviewed results to filter false matches between the voter record and the possible noncitizen.¹¹ This process ultimately identified 1,454 individuals on the voter rolls in 81 counties, whose citizenship status was in question.¹²

Special Challenge Guidance

The timing of our audit¹³ required that staff quickly prepare special challenge instructions for the 81 affected counties ahead of Election Day.¹⁴ The result was a 25-page document that included detailed steps to be taken when a flagged individual presented to vote, answers to frequently asked questions, educational materials for the voter, as well as an individualized affidavit noting the particular reasons the voter was flagged.¹⁵ Aware of the limitations of the data relating to delays in updating the SAVE database and the possibility that a registrant had derived citizenship as a minor without requesting a Certificate of Citizenship, our guidance stressed that the burden of proof in a voter challenge proceeding is on the challenger, not the voter.¹⁶ Our intent was to provide a mechanism whereby precinct officials could provide eligibility information to flagged registrants, make further inquiry when necessary, and to ensure due process in the event a registrant was challenged. A redacted example of our guidance is enclosed for your reference.

County officials worked diligently to ensure that our guidance and challenge packets were available at the flagged registrant's precinct voting location.¹⁷ Of the 1,454

¹⁰ Staff entered data manually using the SAVE web portal. Other states have noted anecdotally that they rarely use the SAVE platform because it does not allow batched data queries.

¹¹ Variations sometimes exist between voter registration information and data provided by the DMV (e.g. an individual may not have updated a registration after marriage but otherwise matched the first and middle names, street address, and date of birth for an individual flagged by both DMV and the SAVE database).

¹² The number represents roughly 0.02% of the state's 6.3-million registered voter records.

¹³ Our Agency finalized its citizenship audit on October 24, 2014, one day after the beginning of one-stop early voting and 49 days after the beginning of mail-in absentee voting. Certain flagged individuals had already cast a ballot at the time the audit was complete.

¹⁴ State statute exclusively authorizes county and precinct elections officials to conduct and decide voter challenges, with rulings appealable to the Superior Court. *See* NC GEN. STAT. § 163-84–90. The State Board of Elections cannot directly challenge voters.

¹⁵ *See* STATE BOARD OF ELECTIONS, *Special Instructions to Affected Counties Regarding the Results of a Citizenship Audit Conducted by the State Board of Elections Prior to the 2014 General Election*.

¹⁶ *See, e.g.*, NC GEN. STAT. § 163-90.1 (describing the burden of proof in challenge proceedings).

¹⁷ Voters are only permitted to vote a regular ballot in their properly assigned precinct. *See* S.L. 2013-38 § 49.1 (amending NC GEN. STAT. § 163-55). Accordingly, elections officials were able to target only the flagged voter's assigned precinct, rather than instruct all county precincts to watch for every flagged voter registered within the county.

flagged registrants, 89 attempted to vote in the 2014 General Election. Various counties conducted independent research into citizenship status of the flagged registrants outside of the challenge process. In some instances, the registrant produced a valid U.S. Passport to poll workers prior to any challenge proceeding. Ultimately, elections officials challenged 24 registrants, 11 of which were sustained. No registrant voted who was flagged as part of the Federal Deferred Action for Childhood Arrivals (DACA) program.

County Board of Elections offices reported a wide range of scenarios for the small proportion of flagged registrants who attempted to vote in the 2014 General Election. Some registrants, when informed that they were flagged in the State Board of Elections' audit voluntarily canceled their registration after officials informed them of eligibility requirements and offered the registrant an opportunity to self-remove.

My office has prepared the enclosed Summary Disposition Chart, indicating how county elections officials handled flagged registrants who attempted to vote in the 2014 General Election.

Post-election Actions

Outcomes from the 2014 General Election demonstrate the limited utility of current data as the basis for Election Day challenges. It is likely that DMV and SAVE data will be of greater use as regular auditing tools. We have prepared and are mailing letters to flagged registrants, requiring documentation demonstrating their citizenship. If a voter fails to provide copies of appropriate documentation, or fails to respond within 30 days, our Agency will work with the appropriate county board of election to initiate challenge proceedings. Additionally, our office is implementing plans to perform regular audits, while providing affected voters with due process. We are also exhorting county officials to ensure that they thoroughly inspect Voter Registration Applications, as our audit identified nearly 100 of the flagged registrants had been improperly processed due to administrative error.

As always, violations of election law will be referred to prosecutorial offices, as appropriate. The office of the State Board of Elections will continue to deal with this matter as a top priority, and we thank you for the opportunity to update you on our efforts.

Sincerely,

A handwritten signature in blue ink that reads "Kim Westbrook Strach". The signature is fluid and cursive, with the first name "Kim" being the most prominent.

Kim Westbrook Strach
Executive Director, State Board of Elections

Cc: Rep. David Lewis, Chairman, House Standing Committee on Elections;
Co-Chair, Joint Legislative Elections Oversight Committee
(*via* email: David.Lewis@ncleg.net)

Sen. Bob Rucho, Co-Chair, Joint Legislative Elections Oversight Committee
(*via* email: Bob.Rucho@ncleg.net)

Rep. Bert Jones, Chairman, House Standing Committee on Elections
(*via* email: Bert.Jones@ncleg.net)

Rep. Henry Michaux, Vice-Chairman, House Standing Committee on Elections
(*via* email: Mickey.Michaux@ncleg.net)

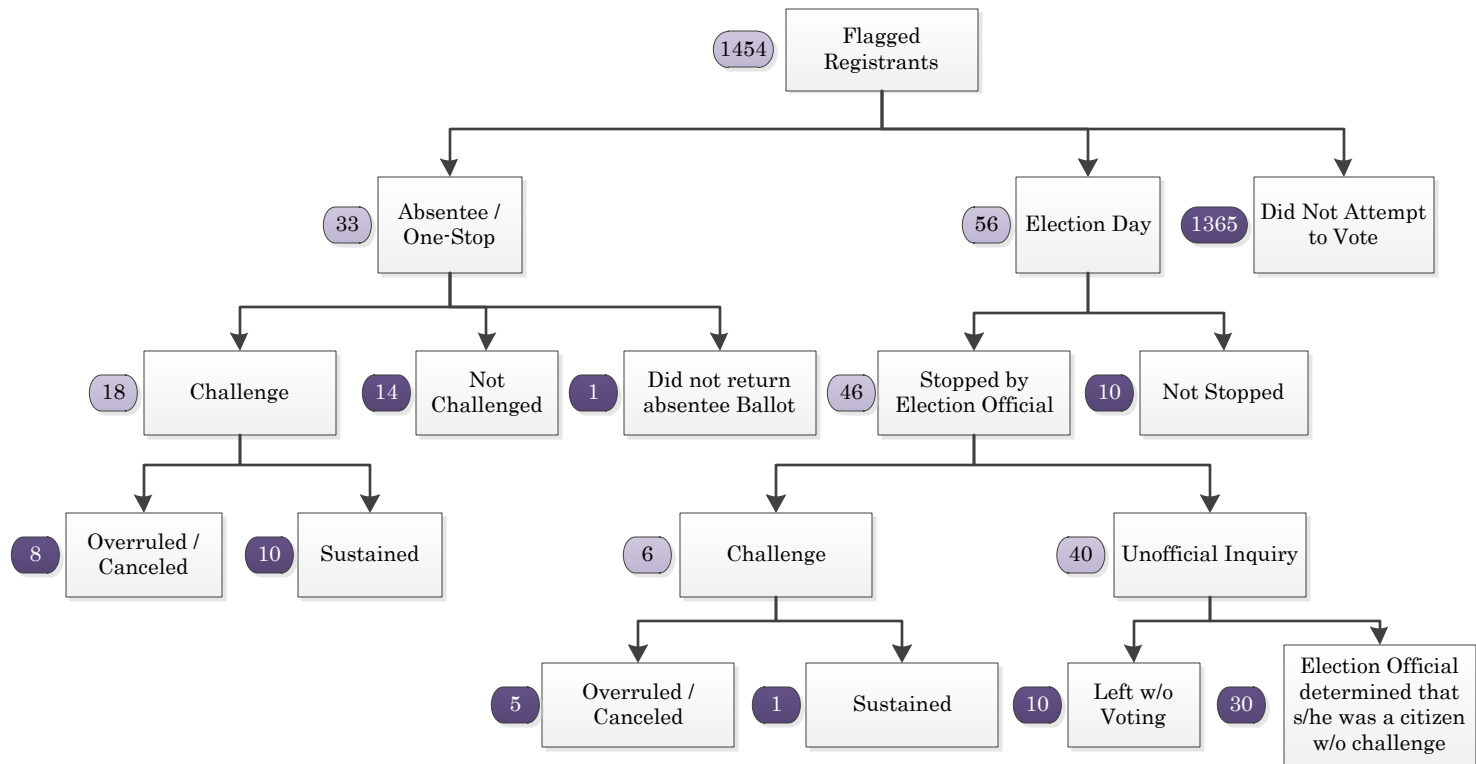
Rep. Harry Warren Vice-Chairman, House Standing Committee on Elections
(*via* email: Harry.Warren@ncleg.net)

Encl.: Summary Disposition Chart (2/6/2015)

Special Instructions Regarding the Results of a Citizenship Audit Conducted by
the State Board of Elections Prior to the 2014 General Election (11/2/2014)

SUMMARY DISPOSITION CHART

(Source: NC State Board of Elections 2/6/2015)





N **RTH CAROLINA**

State Board *of* Elections

**SPECIAL INSTRUCTIONS TO AFFECTED COUNTIES
REGARDING THE RESULTS OF A CITIZENSHIP AUDIT
CONDUCTED BY THE STATE BOARD OF ELECTIONS
PRIOR TO THE 2014 GENERAL ELECTION**

North Carolina State Board of Elections
2014 General Election - Citizenship Audit
Judges of Elections Manual

Contents

- Instructions to Precinct Officials
- Citizenship Audit Review Log
- Voting Eligibility Requirements script
- Voter educational materials (FAQ sheet, N.C. statutes, and DHS-USCIS fact sheet)
- Resignation of Voter Registration form (sample)
- Voter Challenge Form (sample)
- Affidavit with attachments as evidence for you to consider (sample)
- Ruling on Election Day Challenge form
- Challenged Voter Oath form, in English and Spanish (sample)
- Voter examination questions (suggested – not mandatory)
- Challenged Ballot Request form
- Notice of Hearing (Absentee Challenge Only)
- Absentee Voter FAQ's (Absentee Challenge Only)

****These materials contain voter and DMV information that must be kept confidential under certain provisions of state and federal law.****

Instructions to Precinct Officials – In-Person Election Day Challenge under GS § 163-87

If a flagged voter presents to vote, ask voter to step over to the precinct official assigned to handle registration issues and other special cases.

- Read to the voter the ***Voting Eligibility Requirements*** script provided in the packet. Then, provide it to the voter for them to keep. Explain to the voter that the State Board of Elections has conducted a citizenship audit and that the voter's record was flagged as a possible match to a non-citizen DMV record. *[If you require Spanish Language Assistance, please call the State Board of Elections.]*

Note: The voter is free to leave at any time. If the voter leaves without completing any forms, please note this information and call the county board of elections office.

- The precinct official explains that the voter may complete the ***Resignation of Voter Registration*** form if the voter realizes that he/she should not be registered. Provide the voter with an opportunity to complete the form, and to ask any questions the voter may have. Provide the voter with the ***DHS-USCIS Fact Sheet*** to take home along with the provided ***Educational Materials***. Maintain the form with the other documents for that voter. No further action needed.
- If the voter insists that he/she is a citizen and is entitled to vote, explain that if the voter still wishes to vote today, a precinct official may challenge the voter's registration, and that the voter will have the opportunity to provide sworn testimony or evidence that the voter is a U.S. citizen and entitled to vote.
- Precinct judges will be notified to initiate challenge procedures.

Challenge Procedure (GS § 163-88)

Step 1: If the Voter wishes to proceed with voting, one of the Precinct Assistants may initiate a challenge by completing the ***Voter Challenge Form***.

Step 2: A Precinct Judge will administer the oath to the challenger (the Precinct Assistant) and sign the bottom of the ***Voter Challenge Form***. The Chief Judge fills in the date, time, location, and challenger information on the ***Ruling on Election Day Challenge*** form.

Step 3: Chief Judge or Precinct Judge places Voter under oath, using the following oath or affirmation:

Do you solemnly (swear) (affirm) that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, (so help you God or and this is your solemn affirmation)?

Step 4: Ask the Voter if she/he is a U.S. citizen.

If the Voter answers “NO”: Chief Judge checks the appropriate box on page 1 of the ***Ruling on Election Day Challenge*** form, the box on page 2 indicating that the challenge is “sustained,” and signs page 2 of the form. Chief Judge informs the Voter that the challenge has been sustained, and asks the Voter if he/she would like to vote a challenged ballot. Check the appropriate box on page 2.

Give the Voter the ***Educational Materials*** and the ***DHS-USCIS Fact Sheet***.

If the Voter answers “YES”: Chief Judge asks the Voter basic questions about his/her identity and residence. If the judges are satisfied that the Voter is the person he/she claims to be, administer the Voter oath in Step 5.

Step 5: Chief Judge reads aloud the following oath to the Voter -- the Voter is required to say “***I do.***”

You do solemnly (swear) (affirm) that you are a citizen of the United States; that you are at least 18 years of age; that you have resided in this State and in the precinct for which registered for 30 days; that you are not disqualified from voting by the Constitution and laws of this State; that your name is___ [name of voter]___, and that in such name you were duly registered as a Voter of this precinct; that you are the person you represent yourself to be; and that you have not voted in this election at this or any other voting place. (So help you, God) (This is your solemn affirmation).

If the Voter refuses to take the oath: Chief Judge checks the appropriate box on page 1 of the ***Ruling on Election Day Challenge*** form, the box on page 2 indicating that the challenge is “sustained,” and signs page 2 of the form. Chief Judge informs the Voter that the challenge has been sustained, and asks the Voter if he/she would like to vote a challenged ballot. Check the appropriate box on page 2.

Give the Voter the ***Educational Materials*** and the ***DHS-USCIS Fact Sheet***.

Step 6: Request that the Voter sign the *Challenged Voter Oath Form* attesting to the oath in written form, and retain the form.

Step 7: Chief Judge and Precinct Judges examine Challenger's proof (the Affidavit). The Challenger always bears the burden of proof. Judges must presume Voter is qualified to vote. If the Judges believe that the Challenger's evidence supports the challenge, provide the Voter with the opportunity to give further testimony or present evidence as to his/her status as a U.S. citizen. Some questions that may be helpful to you are included in this manual as a guideline. You may ask whatever questions you feel are appropriate and helpful. Try wherever possible to accommodate language/communication barriers.

It is permissible for Judges to consider the Voter's oath alone to be sufficient evidence to overcome the evidence presented by the Challenger, and Judges may choose to require no further evidence from the Voter. The oath was taken under penalty of perjury and after the Voter was warned of the consequences of illegally voting, and should be considered accordingly.

Step 8: Once the Judges are finished examining evidence and hearing testimony, they must take a vote as to whether they are satisfied that the Voter possesses the qualifications for voting and is eligible to vote.

IMPORTANT: the burden of proof is on the challenger, and **not** the Voter being challenged. If the Judges believe that the Voter is credible, and that it is more likely than not that the Voter is telling the truth, the challenge should be overruled.

Step 9: Vote by precinct judges.

9a): If majority is satisfied that the Voter is a U.S. citizen: *Overrule* the challenge. The Voter may resume the process to voting by a regular ballot. Each Precinct Judge signs the ***Ruling on Election Day Challenge*** form on page 1 and checks the box indicating their vote. The Chief Judge checks the "overruled" box on page 2, and signs the form. The challenge process is now over. Escort the Voter back over to the check-in table, and thank the Voter for his or her patience.

9b): If majority is not satisfied that the Voter is a U.S. citizen: *Sustain* the challenge. Each Precinct Judge signs the ***Ruling on Election Day Challenge*** form on page 1 and checks the box indicating their vote. Chief Judge checks the box on page 2 indicating that the challenge is "sustained," and signs page 2 of the form. Chief Judge informs the Voter that the challenge has been sustained, and asks the Voter if he/she would like to vote a challenged ballot. Check the appropriate box on page 2.

Give the Voter the ***Educational Materials*** and the ***DHS-USCIS Fact Sheet***.

Step 10: Collect and return all materials to the County Board of Elections after the close of polls.

Challenged Ballot Procedure

If the voter requests a challenged ballot after the challenge is sustained, have the voter fill out the **Challenged Ballot Request Form**. A Precinct Judge must sign the bottom of the form. Place the completed form into the voter's envelope for return to the county board of elections. Follow the directions for a challenged ballot found in NCGS § 163-88.1 (page 166 in your gray elections law book):

NCGS § 163-88.1

(a) If the decision of the chief judge and judges pursuant to G.S. 163-88 is to sustain the challenge, the challenged voter may request a challenged ballot by submitting an application to the chief judge, such application shall include as part thereof an affidavit that such person possesses all the qualifications for voting and is entitled to vote at the election. The form of such affidavit shall be prescribed by the State Board of Elections and shall be available at the polls.

(b) Any person requesting a challenged ballot shall have the letter "C" entered at the appropriate place on the voter's permanent registration record. The voter's name shall be entered on a separate page in the pollbook entitled "Challenged Ballot," and serially numbered. The challenged ballot shall be the same type of ballot used for absentee voters, and the chief judge shall write across the top of the ballot "Challenged Ballot #,," and shall insert the same serial number as entered in the pollbook. The chief judge shall deliver to such voter a challenged ballot together with an envelope marked "Challenged Ballot" and serially numbered. The challenged voter shall forthwith mark the ballot in the presence of the chief judge in such manner that the chief judge shall not know how the ballot is marked. He shall then fold the ballot in the presence of the chief judge so as to conceal the markings and deposit and seal it in the serially numbered envelope. He shall then deliver such envelope to the chief judge. The chief judge shall retain all such envelopes in an envelope provided by the county board of elections, which he shall seal immediately after the polls close, and deliver to the board chairman at the canvass.

Instructions to Precinct Officials – Absentee Ballot Challenge under GS § 163-89

- At the close of polls, review the list of voters in your pollbook, along with any supplemental list of absentee voters provided by the County Board of Elections, and determine if any of the voters listed on your Citizenship Audit Review Log have cast an absentee ballot by mail or during one-stop early voting.
- Open the provided envelope for that voter. The Chief Judge will complete a **Voter Challenge Form** for any of these voters. Manually check the box at the top of the form that indicates that the voter's eligibility to cast an absentee ballot is being challenged. The Chief Judge signs the form, and places it in a secure location at the polling place, and return all materials to the County Board of Elections.



Voting Eligibility Requirements

The State Board of Elections regularly audits voter registration records to ensure their accuracy. A recent audit of voter registration records conducted by the State Board of Elections, which included comparisons of records of the North Carolina Department of Motor Vehicles and the Department of Homeland Security - U.S. Citizenship and Immigration Services, has indicated that you are registered to vote, but the audit was unable to confirm that you are a United States citizen. Only U.S. citizens are eligible to vote in North Carolina.

Because our audit has identified you as a person who possibly may not be a U.S. citizen, your ballot may be challenged under N.C. General Statute § 166-89. Pursuant to that statute, if you are challenged a hearing will be held to determine your eligibility to vote. As part of that hearing, you will be asked to take an oath stating that you are a citizen. Because this audit relied on the matching of records and different sources of information maintained by various state and federal agencies, it is possible that the results may contain inaccuracies. If you believe that the results of this audit are in error, and that you are not the person identified by our review of the records, or that information regarding your citizenship status is incorrect, you are entitled to present that information and any evidence you may have tending to show that you are eligible to vote. If a challenge is made and sustained, you may still vote what is called a challenge ballot.

I have educational materials you may review concerning eligibility to vote in North Carolina. If after reviewing these materials you believe you are eligible vote, you may proceed to do so, subject to challenge. If after reviewing these materials you believe that you are not eligible to vote, no further action is required at this time. If you would like to, you may complete a resignation of registration form so that you may be voluntarily removed from the voting rolls.



NORTH CAROLINA

State Board of Elections

ELECTION DAY CHALLENGE INFORMATION

You are receiving this information because your eligibility to vote is subject to challenge on the basis that you are not a U.S. citizen. Only citizens are qualified to register or to vote in elections throughout North Carolina. See N.C. GEN. STAT. § 163-55.

If you are not a citizen, it is recommended that you complete the provided Resignation of Voter Registration form immediately, and return it to an elections official at your precinct. Under North Carolina law, registering to vote if not eligible to do so, knowingly making a false statement on voter registration forms, and voting illegally in an election are punishable as Class I felonies.

Along with this sheet, you should have received a document containing the information you should use to contact the DHS-USCIS and obtain a copy of your Naturalization Certificate or Certificate of Citizenship, or to correct your records with that agency if necessary. If you require this information in a language other than English, visit <http://1.usa.gov/101USz5>.

Frequently Asked Questions:

Q: Why is this happening?

A: The State Board of Elections has been auditing its records. A part of that audit is checking for people who are registered to vote who are not eligible. Your voter registration information was compared to a database of DMV customers who are legally present in the United States, but are not U.S. citizens. Your information matched a DMV record of a non-citizen, and so information was sent to the Department of Homeland Security – U.S. Citizenship and Immigration Service (DHS-USCIS) for a verification of citizenship report. The report we received did not indicate that you are a citizen.

Q: I know I am a citizen. What happens now?

A: It is possible that the records that the State Board of Elections has reviewed contain errors. You will now have an opportunity to demonstrate that you are a citizen at the hearing before the Judges of Elections, and your vote will be counted if the challenge is overruled.

Q: I am a citizen. Where did the information come from that I am not, and how do I fix it?

A: The information about citizenship status came from a variety of different sources, including the N.C. DMV and the DHS-USCIS. If you believe that there is an error in these records, please contact the State Board of Elections. If you were previously a legal-presence customer with DMV, but have since been naturalized and are now a citizen, you should

contact DMV to find out how to update your records there. This packet also contains information on how to contact DHS-USCIS to correct your records with that agency.

Q: Aren't I entitled to vote if I am a lawful permanent resident and have a green card?

A: No. Only U.S. citizens may vote in elections in N.C. Citizens are those individuals that were born in the U.S. or have become naturalized.

Q: Do I need to hire a lawyer for this hearing?

A: It is your decision whether you feel like you need representation at the hearing. The hearing before the precinct Judges of Elections is only to determine whether your vote should count. It is not a court, and it cannot impose any penalties.

Q: What about other than the hearing? Should I hire a lawyer?

A: Again, it is up to you whether you feel like you require an attorney. However, this is a serious matter with potential criminal penalties. You should speak to a lawyer if you have concerns.

Q: Where can I find more information, or get my questions answered?

A: You can call the State Board of Elections and someone will assist you with questions about your registration and this process. However, staff at the State Board of Elections cannot give you legal advice. If you feel like you need to talk with someone about the legal issues related to your situation, you should contact an attorney. You may want to contact the N.C. State Bar or the N.C. Bar Association for assistance finding an attorney, or contact Legal Aid. As a reference for you, some of the statutes relating to these issues have been reproduced below.



NORTH CAROLINA
State Board of Elections

Mailing Address: PO Box 27255, Raleigh, NC 27611-7255
Physical Address: 441 North Harrington St, Raleigh, NC 27603

Phone: (919) 733-7173 or (866) 522-4723
Email: elections.sboe@ncsbe.gov

APPLICABLE PROVISIONS: GENERAL STATUTES OF NORTH CAROLINA

§ 163-55. Qualifications to vote; exclusion from electoral franchise.

- (a) Residence Period for State Elections. - Every person born in the United States, and every person who has been naturalized, and who shall have resided in the State of North Carolina and in the precinct in which the person offers to vote for 30 days next preceding an election, shall, if otherwise qualified as prescribed in this Chapter, be qualified to vote in the precinct in which the person resides. Removal from one precinct to another in this State shall not operate to deprive any person of the right to vote in the precinct from which the person has removed until 30 days after the person's removal.
- Except as provided in this Chapter, the following classes of persons shall not be allowed to vote in this State:
- (1) Persons under 18 years of age.
 - (2) Any person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, unless that person shall be first restored to the rights of citizenship in the manner prescribed by law.
- (b) Precincts. - For purposes of qualification to vote in an election, a person's residence in a precinct shall be determined in accordance with G.S. 163-57. Qualification to vote in referenda shall be treated the same as qualification for elections to fill offices.
- (c) Elections. - For purposes of the 30-day residence requirement to vote in an election in subsection (a) of this section, the term "election" means the day of the primary, second primary, general election, special election, or referendum.

§ 163-85. Challenge procedure other than on day of primary or election.

- (a) Right to Challenge; When Challenge May Be Made. - Any registered voter of the county may challenge the right of any person to register, remain registered or vote in such county. No such challenge may be made after the twenty-fifth day before each primary, general, or special election.
- (b) Challenges Shall Be Made to the County Board of Elections. - Each challenge shall be made separately, in writing, under oath and on forms prescribed by the State Board of Elections, and shall specify the reasons why the challenged voter is not entitled to register, remain registered, or vote. When a challenge is made, the board of elections shall cause the word "challenged" to be written in pencil on the registration records of the voter challenged. The challenge shall be signed by the challenger and shall set forth the challenger's address.
- (c) Grounds for Challenge. - Such challenge may be made only for one or more of the following reasons:
- (1) That a person is not a resident of the State of North Carolina, or
 - (2) That a person is not a resident of the county in which the person is registered, provided that no such challenge may be made if the person removed his residency and the period of removal has been less than 30 days, or
 - (3) That a person is not a resident of the precinct in which the person is registered, provided that no such challenge may be made if the person removed his residency and the period of removal has been less than 30 days, or
 - (4) That a person is not 18 years of age, or if the challenge is made within 60 days before a primary, that the person will not be 18 years of age by the next general election, or
 - (5) That a person has been adjudged guilty of a felony and is ineligible to vote under G.S. 163-55(2), or
 - (6), (7) Repealed by Session Laws 1985, c. 563, ss. 11.1, 11.2.
 - (7a) That a person is dead, or
 - (8) That a person is not a citizen of the United States, or
 - (9) With respect to municipal registration only, that a person is not a resident of the municipality in which the person is registered, or
 - (10) That the person is not who he or she represents himself or herself to be.
- (d) Preliminary Hearing. - When a challenge is made, the county board of election shall schedule a preliminary hearing on the challenge, and shall take such testimony under oath and receive such other evidence proffered by the challenger as may be offered. The burden of proof shall be on the challenger, and if no testimony is presented, the board shall dismiss the challenge. If the challenger presents evidence and if the board finds that

probable cause exists that the person challenged is not qualified to vote, then the board shall schedule a hearing on the challenge.

(e) Prima Facie Evidence That Voter No Longer Resides in Precinct. - The presentation of a letter mailed by returnable first-class mail to the voter at the address listed on the voter registration card and returned because the person does not live at the address shall constitute prima facie evidence that the person no longer resides in the precinct.

§ 163-87. (Effective until January 1, 2016) Challenges allowed on day of primary or election.

On the day of a primary or election, at the time a registered voter offers to vote, any other registered voter of the county may exercise the right of challenge, and when he does so may enter the voting enclosure to make the challenge, but he shall retire therefrom as soon as the challenge is heard.

On the day of a primary or election, any other registered voter of the county may challenge a person for one or more of the following reasons:

- (1) One or more of the reasons listed in G.S. 163-85(c).
- (2) That the person has already voted in that primary or election.
- (3) Repealed by Session Laws 2009-541, s. 16.1(b), effective August 28, 2009.
- (4) If the challenge is made with respect to voting in a partisan primary, that the person is a registered voter of another political party.

The chief judge, judge, or assistant appointed under G.S. 163-41 or 163-42 may enter challenges under this section against voters in the precinct for which appointed regardless of the place of residence of the chief judge, judge, or assistant.

If a person is challenged under this subsection, and the challenge is sustained under G.S. 163-85(c)(3), the voter may still transfer his registration under G.S. 163-82.15(e) if eligible under that section, and the registration shall not be cancelled under G.S. 163-90.2(a) if the transfer is made. A person who has transferred his registration under G.S. 163-82.15(e) may be challenged at the precinct to which the registration is being transferred.

§ 163-88. Hearing on challenge made on day of primary or election.

A challenge entered on the day of a primary or election shall be heard and decided by the chief judge and judges of election of the precinct in which the challenged registrant is registered before the polls are closed on the day the challenge is made. When the challenge is heard the precinct officials conducting the hearing shall explain to the challenged registrant the qualifications for registration and voting in this State, and shall examine him as to his qualifications to be registered and to vote. If the challenged registrant insists that he is qualified, and if, by sworn testimony, he shall prove his identity with the person in whose name he offers to vote and his continued residence in the precinct since he was registered, one of the judges of election or the chief judge shall tender to him the following oath or affirmation, omitting the portions in brackets if the challenge is heard on the day of an election other than a primary:

"You do solemnly swear (or affirm) that you are a citizen of the United States; that you are at least 18 years of age [or will become 18 by the date of the next general election]; that you have [or will have] resided in this State and in the precinct for which registered for 30 days [by the date of the next general election]; that you are not disqualified from voting by the Constitution and laws of this State; that your name is _____, and that in such name you were duly registered as a voter of this precinct; that you are the person you represent yourself to be; [that you are affiliated with the _____ party]; and that you have not voted in this [primary] election at this or any other voting place. So help you, God."

If the challenged registrant refuses to take the tendered oath, the challenge shall be sustained, and the precinct officials conducting the hearing shall mark the registration records to reflect their decision, and they shall erase the challenged registrant's name from the pollbook if it has been entered therein. If the challenged registrant takes the tendered oath, the precinct officials conducting the hearing may, nevertheless, sustain the challenge unless they are satisfied that the challenged registrant is a legal voter. If they are satisfied that he is a legal voter, they shall overrule the challenge and permit him to vote. Whenever any person's vote is received after having taken the oath prescribed in this section, the chief judge or one of the judges of election shall write on the registration record and on the pollbook opposite the registrant's name the word "sworn."

Precinct election officials conducting hearings on challenges on the day of a primary or election shall have authority to administer the necessary oaths or affirmations to all witnesses brought before them to testify to the qualifications of the person challenged.

A letter or postal card mailed by returnable mail and returned by the United States Postal Service purportedly because the person no longer lives at that address or because a forwarding order has expired shall not be admissible evidence in a challenge heard under this section which was made under G.S. 163-87.

§ 163-88.1. Request for challenged ballot.

(a) If the decision of the chief judge and judges pursuant to G.S. 163-88 is to sustain the challenge, the challenged voter may request a challenged ballot by submitting an application to the chief judge, such application shall include as part thereof an affidavit that such person possesses all the qualifications for voting and is entitled to vote at the election. The form of such affidavit shall be prescribed by the State Board of Elections and shall be available at the polls.

(b) Any person requesting a challenged ballot shall have the letter "C" entered at the appropriate place on the voter's permanent registration record. The voter's name shall be entered on a separate page in the pollbook entitled "Challenged Ballot," and serially numbered. The challenged ballot shall be the same type of ballot used for absentee voters, and the chief judge shall write across the top of the ballot "Challenged Ballot #____," and shall insert the same serial number as entered in the pollbook. The chief judge shall deliver to such voter a challenged ballot together with an envelope marked "Challenged Ballot" and serially numbered. The challenged voter shall forthwith mark the ballot in the presence of the chief judge in such manner that the chief judge shall not know how the ballot is marked. He shall then fold the ballot in the presence of the chief judge so as to conceal the markings and deposit and seal it in the serially numbered envelope. He shall then deliver such envelope to the chief judge. The chief judge shall retain all such envelopes in an envelope provided by the county board of elections, which he shall seal immediately after the polls close, and deliver to the board chairman at the canvass.

(c) The chairman of the county board of elections shall preserve such ballots in the sealed envelopes for a period of six months after the election. However, in the case of a contested election, either party to such action may request the court to order that the sealed envelopes containing challenged ballots be delivered to the board of elections by the chairman. If so ordered, the board of elections shall then convene and consider each challenged ballot and rule as to which ballots shall be counted. In such consideration, the board may take such further evidence as it deems necessary, and shall have the power of subpoena. If any ballots are ordered to be counted, they shall be added to the vote totals.

§ 163-89. Procedures for challenging absentee ballots.

(a) Time for Challenge. - The absentee ballot of any voter may be challenged on the day of any statewide primary or general election or county bond election beginning no earlier than noon and ending no later than 5:00 P.M., or by the chief judge at the time of closing of the polls as provided in G.S. 163-232 and G.S. 163-251(b). The absentee ballot of any voter received by the county board of elections pursuant to G.S. 163-231(b)(ii) or (iii) may be challenged no earlier than noon on the day following the election and no later than 5:00 p.m. on the next business day following the deadline for receipt of such absentee ballots.

(b) Who May Challenge. - Any registered voter of the same precinct as the absentee voter may challenge that voter's absentee ballot.

(c) Form and Nature of Challenge. - Each challenged absentee ballot shall be challenged separately. The burden of proof shall be on the challenger. Each challenge shall be made in writing and, if they are available, shall be made on forms prescribed by the State Board of Elections. Each challenge shall specify the reasons why the ballot does not comply with the provisions of this Article or why the absentee voter is not legally entitled to vote in the particular primary or election. The challenge shall be signed by the challenger.

(d) To Whom Challenge Addressed; to Whom Challenge Delivered. - Each challenge shall be addressed to the county board of elections. It may be filed with the board at its offices or with the chief judge of the precinct in which the challenger and absentee voter are registered. If it is delivered to the chief judge, the chief judge shall personally deliver the challenge to the chairman of the county board of elections on the day of the county canvass.

(e) Hearing Procedure. - All challenges filed under this section shall be heard by the county board of elections on the day set for the canvass of the returns. All members of the board shall attend the canvass and all members shall be present for the hearing of challenges to absentee ballots.

Before the board hears a challenge to an absentee ballot, the chairman shall mark the word "challenged" after the voter's name in the register of absentee ballot applications and ballots issued and in the pollbook of absentee voters.

The board then shall hear the challenger's reasons for the challenge, and it shall make its decision without opening the container-return envelope or removing the ballots from it.

The board shall have authority to administer the necessary oaths or affirmations to all witnesses brought before it to testify to the qualifications of the voter challenged or to the validity or invalidity of the ballot.

If the challenge is sustained, the chairman shall mark the word "sustained" after the word "challenged" following the voter's name in the register of absentee ballot applications and ballots issued and in the pollbook of absentee voters; the voter's ballots shall not be counted; and the container-return envelope shall not be opened but shall be marked "Challenge Sustained." All envelopes so marked shall be preserved intact by the chairman for a period of six months from canvass day or longer if any contest then is pending concerning the validity of any absentee ballot.

If the challenge is overruled, the absentee ballots shall be removed from the container-return envelopes and counted by the board of elections, and the board shall adjust the appropriate abstracts of returns to show that the ballots have been counted and tallied in the manner provided for unchallenged absentee ballots.

If the challenge was delivered to the board by the chief judge of the precinct and was sustained, the board shall reopen the appropriate ballot boxes, remove such ballots, determine how those ballots were voted, deduct such ballots from the returns, and adjust the appropriate abstracts of returns.

Any voter whose ballots have been challenged may, either personally or through an authorized representative, appear before the board at the hearing on the challenge and present evidence as to the validity of the ballot.

§ 163-90.1. Burden of proof.

(a) Challenges shall not be made indiscriminately and may only be made if the challenger knows, suspects or reasonably believes such a person not to be qualified and entitled to vote.

(b) No challenge shall be sustained unless the challenge is substantiated by affirmative proof. In the absence of such proof, the presumption shall be that the voter is properly registered or affiliated.

§ 163-90.2. Action when challenge sustained, overruled, or dismissed.

(a) When any challenge is sustained for any cause listed under G.S. 163-85(c), the board shall cancel or correct the voter registration of the voter. The board shall maintain such record for at least six months and during the pendency of any appeal. The challenged ballot shall be counted for any ballot items for which the challenged voter is eligible to vote, as if it were a provisional official ballot under the provisions of G.S. 163-166.11(4).

(b) Repealed by Session Laws 2006-252, s. 3(b), effective August 27, 2006.

(c) When any challenge made under G.S. 163-85 is overruled or dismissed, the board shall erase the word "challenged" which appears on the person's registration records.

(d) A decision by a county board of elections on any challenge made under the provisions of this Article shall be appealable to the Superior Court of the county in which the offices of that board are located within 10 days. Only those persons against whom a challenge is sustained or persons who have made a challenge which is overruled shall have standing to file such appeal.

§ 163-90.3. Making false affidavit perjury.

Any person who shall knowingly make any false affidavit or shall knowingly swear or affirm falsely to any matter or thing required by the terms of this Article to be sworn or affirmed shall be guilty of a Class I felony.

§ 163-275. Certain acts declared felonies.

Any person who shall, in connection with any primary, general or special election held in this State, do any of the acts or things declared in this section to be unlawful, shall be guilty of a Class I felony. It shall be unlawful:

- (1) For any person fraudulently to cause his name to be placed upon the registration books of more than one election precinct or fraudulently to cause or procure his name or that of any other person to be placed upon the registration books in any precinct when such registration in that precinct does not qualify such person to vote legally therein, or to impersonate falsely another registered voter for the purpose of voting in the stead of such other voter;
[...]

- (3) For any person who is an election officer, a member of an election board or other officer charged with any duty with respect to any primary or election, knowingly to make any false or fraudulent entry on any election book or any false or fraudulent returns, or knowingly to make or cause to be made any false statement on any ballot, or to do any fraudulent act or knowingly and fraudulently omit to do any act or make any report legally required of such person;
- (4) For any person knowingly to swear falsely with respect to any matter pertaining to any primary or election;
[...]
- (6) For any person to take corruptly the oath prescribed for voters;
[...]
- (13) For any person falsely to make or present any certificate or other paper to qualify any person fraudulently as a voter, or to attempt thereby to secure to any person the privilege of voting, including declarations made under this Chapter, G.S. 20-37.7(d)(5), 20-37.7(d)(6), 130A-93.1(c), and 161-10(a)(8);
[...]
- (18) For any person, knowing that a person is not a citizen of the United States, to instruct or coerce that person to register to vote or to vote.



Fact Sheet

Information for Applicants: Verification of Immigration Status and How to Correct Your Record with USCIS

Many federal, state and local agencies verify the immigration status of benefit applicants to ensure that only qualified aliens or naturalized and derived citizens receive benefits. These agencies verify immigration status by using the Systematic Alien Verification for Entitlements (SAVE) Program of the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS).

The benefit-granting agency has submitted your information to the SAVE Program for verification. Because the SAVE Program cannot confirm your immigration status after completion of a process that includes the agency providing USCIS with a copy of your immigration documentation, you must be given an opportunity to correct your records with USCIS and reapply for the benefit and/or appeal the denial of the benefit. Please note that there are a number of reasons why the SAVE Program may not be able to verify your immigration status. The inability of the SAVE Program to verify your status does not necessarily mean that you are not authorized to be in the United States or are ineligible to receive the benefit for which you applied.

If you believe that the SAVE Program response to the benefit-granting agency did not provide accurate information about your actual immigration status and/or you need to make corrections to your immigration record, please contact USCIS by using one of the following methods:

- 1. Schedule an appointment for an in-person interview at a local USCIS office.** You may schedule an appointment at a local USCIS office at the InfoPass website, <http://infopass.uscis.gov>, or by calling the National Customer Service Center, **1-800-375-5283**. Scheduling an appointment is the fastest way to correct your records. We recommend that you bring to your appointment this Fact Sheet, documentation evidencing your immigration status, and any information provided by the benefit-granting agency concerning why your immigration status makes you ineligible to receive the benefit.
- 2. Submit a request in writing.** If you know the information that needs to be corrected in your record, you may submit a request to correct your records to the Freedom of Information Act/Privacy Act (FOIA/PA) Office at the following address:

Privacy Act Amendment
U.S. Citizenship and Immigration Services
National Records Center
FOIA/PA Office

P.O. Box 648010
Lee's Summit, MO 64064-8010

We recommend that you include the following information in your submission, if available:

- State that you were denied benefits
- Information that is inaccurate
- Proposed change(s) to the record
- Date and place of birth
- A return address
- Copies of your immigration /naturalization status documents
- Reason it is inaccurate
- A-File number and/or the full name
- Notarized signature of the applicant
- Other information that may assist in locating the record

If you do not know the information you need to correct, you may submit a written request to obtain your records by submitting Form G-639, *FOIA/PA Request*. This form is available from the nearest USCIS office or online at <http://www.uscis.gov/files/form/g-639.pdf> . You should use the address specified above, but mark the envelope "*Privacy Act Request*" rather than "*Privacy Act Amendment*."



RESIGNATION OF VOTER REGISTRATION
NORTH CAROLINA
COUNTY OF [REDACTED]

I, _____ do voluntarily resign my
(full legal name)
voter registration in [REDACTED] County, North Carolina.

I am not eligible to vote. I hereby request that I be removed from North
Carolina's voter registration rolls as soon as possible.

Signature of Voter

Date

Printed Name of Voter

Phone Number

[REDACTED]
Address used in N.C. voter registration

Mailing address (if different from above)

Signature of Witness (or Notary Public)

Date

Printed Name of Witness (or Notary Public)

Address and Phone Number of Witness (or Notary Public)



VOTER CHALLENGE FORM
NORTH CAROLINA
COUNTY OF _____

FRAUDULENTLY OR FALSELY COMPLETING THIS FORM IS A CLASS I FELONY UNDER CHAPTER 163 OF THE NC GENERAL STATUTES.

TO: _____ COUNTY BOARD OF ELECTIONS

I challenge the right of _____ to:

☒ Vote

☐ Cast an Absentee Ballot

in the County of _____ in the _____ Precinct
in the City of _____

This challenge is made based on my knowledge, suspicion, or reasonable belief that the above-named voter is not eligible to register to vote or vote for the reason(s) indicated below (mark appropriate reason):

- ☐ The person is not a resident of the State of North Carolina.
- ☐ The person is not a resident of the county in which the person is registered.
- ☐ The person is not a resident of the precinct in which the person is registered.
- ☐ The person is not a resident of the municipality in which the person is registered.
- ☐ The person is not eighteen years of age, or if this challenge is made within 60 days before a primary, the person will not be eighteen years of age by the next general election.
- ☐ The person has been adjudged guilty of a felony and the person's rights of citizenship have not been restored.
- ☐ The person is dead.
- ☒ The person is not a citizen of the United States.
- ☐ The person is not who he or she represents himself or herself to be.
- ☐ With respect to a primary or election on _____, the person has already voted in the primary or election.
- ☐ With respect to voting in a partisan primary on _____, the person is a registered voter of another political party.
- ☐ With respect to an absentee ballot that has been cast in the _____ Election, I am challenging the absentee ballot on the grounds that:
_____.

I do solemnly swear (or affirm) that this challenge is not made indiscriminately, and is based on my knowledge, suspicion, or reasonable belief, so help me God.

Name

Address

Telephone No.

Email Address

**NORTH CAROLINA
COUNTY OF WAKE**

IN RE:


SBE CITIZENSHIP AUDIT

AFFIDAVIT OF MARC BURRIS

Marc Burris, first being duly sworn, deposes and says as follows:

1. I am over the age of 18 and competent to testify as to all matters contained in this affidavit.
2. I am the Information Systems Director for the North Carolina State Board of Elections (herein "SBE"). The SBE maintains custody of, and I have access to, business records relating to the registered voters identified in **EXHIBIT A** (hereinafter, individually, "Voter").
3. I am familiar with the system by which the business records of the SBE were generated relating to the Voter, which were created in the regular course of business at or near the time of the events recorded, and based upon the personal knowledge of the State or County election official making the record.
4. In the course of performing my day-to-day duties as Information Systems Director, I regularly review voter registration records and the other State and federal databases referenced in this affidavit.
5. The facts herein are true based on my personal knowledge or based upon knowledge gained from my review of the SBE business records relating to the Voters.
6. In October 2014, the SBE conducted an audit of the North Carolina voter registration records, including that of the Voter, which were compared against customer records provided by the N.C. Division of Motor Vehicles (herein "DMV"). The audit resulted in a potential match of the Voter's record to a DMV customer record (herein "DMV Matched Record") which indicated that the individual was not a U.S. citizen.
7. SBE submitted information from the DMV Matched Record to a database maintained by the U.S. Department of Homeland Security – U.S. Citizenship and Immigration Service (herein "DHS-USCIS"), including the first/last name, date of birth, alien identification number or legal presence document number, and legal presence document type for the DMV Matched Record. Any DMV Matched Record identified by DHS-USCIS as a U.S. citizen was excluded from the list of potential non-citizens.
8. Upon information and belief, SBE's audit indicated that the DMV Matched Record belonged to a non-citizen of the United States.
9. A comparison of the Voter and the DMV Matched Record is attached hereto and incorporated herein by reference as **EXHIBIT A**.
10. Further affiant sayeth not.

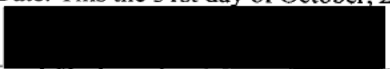
This the 31st day of October, 2014



BY: Marc Burris, Information Systems Director
North Carolina State Board of Elections

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Signed and sworn to (or affirmed) before me this day by Marc Burris.

Date: This the 31st day of October, 2014.


(Notary's Signature)

, Notary Public
(Notary's Printed Name)

My commission expires: December 29, 2016

(Official Seal)

EXHIBIT A
Page 1109 of 1455
Citizenship Audit Report

VOTER		DMV MATCHED RECORD
First Name	████████	████████
Middle Name		
Last Name	████████	████████
Date of Birth	████████	████████
DMV Number (Driver's License or State ID Number)	████████	████████
Social Security (last digits)	████	████
Address	████████████████	████████████████
Alien ID number or Legal Presence Document number		████████
Legal Presence Document type		████████████████ ████████████████ ████████

****THE ABOVE INFORMATION IS CONFIDENTIAL****

Disclosure in whole or in part may constitute a violation of 18 U.S.C. § 2721, N.C. GEN. STAT.

§ 163-82.10, and other provisions of state and federal law. This Exhibit is not a public record.



CHALLENGED VOTER OATH FORM

NORTH CAROLINA

COUNTY OF _____

"I do solemnly swear (or affirm) that I am a citizen of the United States; that I am at least 18 years of age; that I have resided in this State and in the precinct for which registered for 30 days; that I am not disqualified from voting by the Constitution and laws of this State; that my name is _____, and that in such name I was duly registered as a voter of this precinct; that I am the person I represent myself to be; and that I have not voted in this election at this or any other voting place. So help me, God."

"Usted jura solemnemente (o afirma) que es ciudadano de los Estados Unidos; que tiene por lo menos 18 años de edad; que ha residido en este Estado y en el recinto en el cual se inscribió durante 30 días; que no está inhabilitado para votar por la Constitución y las leyes de este Estado; que su nombre es _____, y que bajo tal nombre fue debidamente inscrito como votante de este recinto, que usted es la persona que representa ser, y que no ha votado en estas elecciones en este o en cualquier otro lugar de votación. Bajo el amparo de Dios."

Signature

Name

Street Address

_____, NC
City

Zip Code

Sworn to and subscribed before me this the
4th day of November, 2014.

Signature of Election Official authorized to
administer oaths

Name (print) and Title

File No. [REDACTED]

NORTH CAROLINA

[REDACTED] COUNTY

COUNTY BOARD OF ELECTIONS

IN THE MATTER OF

[REDACTED]

ELECTION CHALLENGE PURSUANT
TO GS ARTICLE 8 AND GS 163-55(a)

[REDACTED]

[REDACTED]

[REDACTED]

**RULING ON ELECTION DAY
CHALLENGE**

At the time and place indicated below, a hearing was conducted on the challenge to the eligibility of the above-named registered voter.

Date of Hearing	Time Of Hearing	Location Of Hearing
November 4, 2014	<input type="checkbox"/> AM <input type="checkbox"/> PM	
Name of Challenger	Title	County and Precinct of Voter Registration

Basis of Challenge:

Voter is not qualified to register to vote or vote in N.C. elections because he or she is not a U.S. citizen.

Authority for Challenge:

N.C. Gen. Stat. Article 8; N.C. Gen. Stat. § 163-55(a)

Pursuant to the authority granted by N.C. Gen. Stat. §§ 163-47(c), 163-87, 163-88, the undersigned Chief Judge and Judges of Elections conducted a hearing into the qualifications and eligibility of the above-named challenged Registrant, who personally appeared before us. The Registrant was informed of the qualifications for registration and voting in this State, and the Registrant's qualifications were examined. The Registrant:

☐ did not assert that he or she was qualified to be registered and vote. *(Sustain the challenge on page 2)*

☐ insisted that he or she was qualified to be registered and vote, but refused to be sworn or to take the oath prescribed by N.C. Gen. Stat. § 163-88. *(Sustain the challenge on page 2)*

☐ insisted that he or she was qualified to be registered and vote, was sworn, and by sworn testimony offered proof of his or her identity with the person in whose name he or she offered to vote and his or her continued residence in the precinct since the time of registration. The Registrant was administered the oath prescribed by N.C. Gen. Stat. § 163-88. Upon consideration of the evidence provided by the Challenger, the sworn testimony of the Registrant, and the review of any and all evidence offered by the Registrant, the Chief Judge and Judges of Elections find as follows:

<i>Date</i>	<i>Decision</i>	<i>Signature</i>
11/4/2014	<input type="checkbox"/> <i>Sustain</i> <input type="checkbox"/> <i>Overrule</i>	 Name (print) _____ Precinct Chief Judge of Elections
11/4/2014	<input type="checkbox"/> <i>Sustain</i> <input type="checkbox"/> <i>Overrule</i>	 Name (print) _____ Precinct Judge of Elections
11/4/2014	<input type="checkbox"/> <i>Sustain</i> <input type="checkbox"/> <i>Overrule</i>	 Name (print) _____ Precinct Judge of Elections

☐ **The challenge is therefore SUSTAINED.** A majority of the precinct officials are not satisfied that that the challenged Registrant is a legal voter, the Registrant has acknowledged that he or she is ineligible and unqualified, or the Registrant has refused to be sworn and take the prescribed oath. The Registrant's records shall be marked to reflect this decision, and the Registrant's name shall be removed from the pollbook if it has been entered therein. A copy of this decision will be provided to the County Board of Elections to be made a part of the Registrant's official record of voter registration.

☐ **The challenge is therefore OVERRULED.** A majority of the precinct officials are satisfied that the Registrant is a legal voter. The Registrant shall be permitted to vote a regular ballot, and a copy of this decision will be provided to the County Board of Elections to be made a part of the Registrant's official record of voter registration.

SO ORDERED, this the 4th day of November, 2014.

<i>Signature</i>	<i>Name (print)</i>
_____	_____
	Precinct Chief Judge of Elections

Challenged Ballot:

☐ The challenged Registrant has not requested a challenged ballot pursuant to N.C. Gen. Stat. § 163-88.1.

☐ The challenged Registrant has requested a challenged ballot pursuant to N.C. Gen. Stat. § 163-88.1 by submitting an application to the Chief Judge of Elections and completing the affidavit included as a part thereof. The Chief Judge shall deposit the ballot in a sealed and serially numbered envelope to be delivered to the Chairman of the County Board of Elections at the canvass.



CHALLENGED BALLOT REQUEST

NORTH CAROLINA

COUNTY OF [REDACTED]

I hereby appeal the decision of the challenge against me, this fourth day of November, 2014.

Signature of voter being challenged

APPLICATION FOR CHALLENGED BALLOT

To the chief judge of the [REDACTED] precinct, [REDACTED] County, State of North Carolina:

I, _____, a qualified voter, having had my right to vote in this Primary or election challenged, and said challenge having been sustained by the judges and chief judge of the above-named precinct do hereby apply for a CHALLENGED BALLOT, pursuant to the provisions of NCGS 163-88.1. This application is supported by the following AFFIDAVIT.

AFFIDAVIT IN SUPPORT OF APPLICATION FOR CHALLENGED BALLOT

_____, of the [REDACTED] precinct, County of [REDACTED], State of North Carolina, being duly sworn on his or her oath, deposes and says:

I am a citizen of the United States, and possess all of the qualifications for voting, and am entitled to vote in this election.

This is the fourth day of November, 2014.

Signature of voter being challenged

Sworn and subscribed before me
This is the fourth day of November, 2014

Signature of election official authorized to administer oaths

NORTH CAROLINA
COUNTY

COUNTY BOARD OF ELECTIONS

IN THE MATTER OF

ELECTION CHALLENGE PURSUANT TO GS 163-85(C) AND 163-89

NOTICE OF HEARING (ABSENTEE BALLOT CHALLENGE)

You are notified that a hearing on a challenge of your absentee ballot and your eligibility as a registered voter will be conducted by the County Board of Elections at the time and place specified below. You are notified that should you wish to dispute the challenge you must appear either in person or through an authorized representative. If you do not appear, the challenge may be sustained and your ballot declared invalid.

Date of Hearing	Time Of Hearing	Location Of Hearing
	<input type="checkbox"/> AM <input type="checkbox"/> PM	

YOUR ABSENTEE BALLOT HAS BEEN CHALLENGED!

Challenger:

_____, Chief Judge of Elections, _____ County, Precinct _____

Basis of Challenge:

You are not qualified to register to vote or vote in N.C. elections because you are not a citizen of the United States of America.

Authority for Challenge:

N.C. Gen. Stat. § 163-85(c)(8); N.C. Gen. Stat. § 163-55(a)

Instructions:

If you dispute this challenge, and allege that you are a U.S. citizen, and therefore qualified to register to vote and eligible to participate in N.C. elections, you are directed to appear in person or through an authorized representative before the County Board of Elections and present evidence. Evidence may include your sworn testimony, the sworn testimony of competent witnesses that you may call to testify, and documentary evidence tending to establish that you are United States citizen. Examples of such documentary evidence would include but is not limited to: an original or copy of a Certificate of Citizenship or Naturalization Certificate issued by the U.S. government, a U.S. passport or passport card, an original or copy of a birth certificate issued by a U.S. jurisdiction, a current and valid N.C. driver's license with no indication of legal presence, or other documents relevant to citizenship status.

	CERTIFICATE OF SERVICE	
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I certify that on this date, a copy of this Notice Of Hearing was served by certified mail, return receipt requested, addressed to the challenged voter named above at the address shown above and contained in the official voter registration record of the challenged voter named above.

Date	Signature
	<div> <input type="checkbox"/> Chairperson, Board of Elections <input type="checkbox"/> Secretary, Board of Elections <input type="checkbox"/> Elections Director, Board of Elections </div>



NORTH CAROLINA

State Board of Elections

ABSENTEE BALLOT CHALLENGE INFORMATION

You are receiving this information because your absentee ballot has been challenged on the basis that you are not a U.S. citizen. Only citizens are qualified to register or to vote in elections throughout North Carolina. See N.C. GEN. STAT. § 163-55. If you are not a citizen, it is recommended that you complete the enclosed Resignation of Voter Registration form immediately, and return it to the State Board of Elections in the envelope provided. Under North Carolina law, registering to vote if not eligible to do so, knowingly making a false statement on voter registration forms, and voting illegally in an election are punishable as a Class I felony.

If you are in fact a U.S. citizen, please contact the State Board of Elections immediately so that we can correct your records.

Also enclosed with this letter is a document containing the information you should use to contact the DHS-USCIS and obtain a copy of your Naturalization Certificate or Certificate of Citizenship, or to correct your records with that agency if necessary. If you require this information in a language other than English, visit <http://1.usa.gov/101USz5>. Because your ballot has been challenged, a hearing will be conducted before your county board of elections to determine your eligibility to vote and whether your ballot should be counted in this election. See N.C. GEN. STAT. § 163-89. At this hearing, you will have the opportunity to present evidence and call witnesses in order to demonstrate that you are in fact a citizen.

Frequently Asked Questions:

Q: Why is this happening?

A: The State Board of Elections has been auditing its records. A part of that audit is checking for people who are registered to vote who are not eligible. Your voter registration information was compared to a database of DMV customers who are legally present in the United States, but are not U.S. citizens. Your information matched a DMV record of a non-citizen, and so information was sent to the Department of Homeland Security – U.S. Citizenship and Immigration Service (DHS-USCIS) for a verification of citizenship report. The report we received did not indicate that you are a citizen.

Q: I know I am a citizen. What should I do now?

A: It is possible that the records that the State Board of Elections has reviewed contain errors. Do not panic. You will have an opportunity to demonstrate that you are a citizen at the hearing before your county board of elections, and your vote will count if the challenge is overruled.

Q: I want to dispute the challenge because I am a citizen. How do I do that?

A: You should gather information, documents, and witnesses and attend the challenge hearing at the time and place stated on the Notice of Hearing you received. Examples of documents that would be relevant and could help you demonstrate that you are a U.S. citizen include: a U.S. passport (even one that is expired), a birth certificate from a U.S. jurisdiction, court orders regarding your citizenship status, a Certificate of Citizenship or Naturalization Certificate, and others. You may also call witnesses who can testify that you are a citizen. Some examples of relevant testimony would include: if your parent or an older sibling can testify that he or she remembers your birth and that you were born in the U.S., or if your spouse can testify that he or she was present at your naturalization ceremony.

Q: I am a citizen. Where did the information come from that I am not, and how do I fix it?

A: The information about citizenship status came from a variety of different sources, including the N.C. DMV and the DHS-USCIS. If you believe that there is an error in these records, please contact the State Board of Elections. If you were previously a legal-presence customer with DMV, but have since been naturalized and are now a citizen, you should contact DMV to find out how to update your records there. This packet also contains information on how to contact DHS-USCIS to correct your records with that agency.

Q: Aren't I entitled to vote if I am a lawful permanent resident and have a green card?

A: No. Only U.S. citizens may vote in elections in N.C. Citizens are those individuals that were born in the U.S. or have become naturalized.

Q: I don't remember registering to vote. Am I in trouble?

A: Maybe. If you intentionally registered to vote knowing that you were not eligible, you could be prosecuted. However, if, for example, you registered to vote at the Division of Motor Vehicles, at a public assistance office, or at a voter registration drive, and you were not aware that you were doing so, then you may not have violated the law. It is also possible that someone registered you to vote fraudulently without your knowledge. You should contact your local board of elections or the State Board of Elections for help determining how you became registered. You should speak with a lawyer if you have concerns about the legal issues.

Q: Do I need to hire a lawyer for this hearing?

A: It is your decision whether you feel like you need representation at the hearing. The hearing before the county board of elections is only to determine whether your vote should count. It is not a court, and it cannot impose any penalties. You can be represented at the hearing by anyone that you authorize, but if you are not going to attend, you must provide the county board of elections with an affidavit stating the following:

1. You are over the age of 18
2. You have resided in the State and the precinct in which you are registered for at least 30 days prior to voting in the election
3. You are not disqualified from voting by the Constitution or laws of this State
4. You are named _____ and were duly registered as a voter of _____ precinct in such name, and that you are the person represented to be by the affidavit.

Q: What about other than the hearing? Should I hire a lawyer?

A: Again, it is up to you whether you feel like you require an attorney. However, this is a serious matter with potential criminal penalties. You should speak to a lawyer if you have concerns.

Q: What happens if I do not come to the hearing?

A: If you do not appear at the hearing, the challenge may be sustained and your ballot not counted. If you are not a citizen, and you do not plan to contest the basis of the challenge, you need not appear at the hearing. You would only need to appear at the hearing if you plan to argue that you are eligible to vote.

Q: Where can I find more information, or get my questions answered?

A: You can call the State Board of Elections and someone will assist you with questions about your registration and this process. However, staff at the SBOE cannot give you legal advice. If you feel like you need to talk with someone about the legal issues related to your situation, you should contact an attorney. You may want to contact the N.C. State Bar or the N.C. Bar Association for assistance finding an attorney, or contact Legal Aid. As a reference for you, some of the statutes relating to these issues have been reproduced below.



NORTH CAROLINA State Board of Elections

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