

Burgos, Alexander N

Subject: FW: [External] RE: Formal Objection & Request for Legislative Review Rule Citations: 08 NCAC 23 .0101, .0102, .0103, and .0104 –Katheen A. Rickert

Importance: High

From: Kitz Rickert <kitzrickert@hotmail.com>

Sent: Thursday, May 21, 2026 2:39 PM

To: Ascher, Seth M <seth.ascher@oah.nc.gov>

Cc: Postmaster, Oah <oah.postmaster@oah.nc.gov>; Steele, Adam <adam.steele@ncsbe.gov>; SVC_SBOE.Elections <Elections.SBOE@ncsbe.gov>; rrc.comments <rrc.comments@oah.nc.gov>

Subject: [External] RE: Formal Objection & Request for Legislative Review Rule Citations: 08 NCAC 23 .0101, .0102, .0103, and .0104 –Katheen A. Rickert

Importance: High

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Public Comment on Proposed Rules 08 NCAC 23 .0101 - .0104

To the Members of the Rules Review Commission and Reviewing Staff:

I am writing to submit my formal public comments regarding the "List Maintenance" rules recently adopted by the State Board of Elections. As a concerned citizen and taxpayer living in Durham County, I have serious concerns about these rules. They are technically flawed, fiscally irresponsible, and fail to meet the mandatory administrative criteria that your Commission is required to review under G.S. § 150B-21.9.

Regarding Rule .0101: Why it fails on Technical Soundness and Clarity:

The SAVE Database is Unsound: The Board wants to rely primarily on the federal SAVE database to flag potential noncitizens. But according to USCIS data reviewed by the Brennan Center, this database has a massive 97.6% false-positive rate when people try to use it for voter registration cleaning ([Brennan Center SAVE Error Analysis])(<https://www.brennancenter.org/our-work/analysis-opinion/floridas->

[non-citizen-voter-purge-976-error-rate](#)). Forcing a rule, though based on a database that is inaccurate completely violates the agency's duty to use sound technical information under G.S. § 150B-19.1(a)(5).

Undefined Triggers Create a "Trap": The rule also mentions using undefined "other government records" to flag people. This completely fails the "Clarity" standard set by G.S. § 150B-21.9(a)(2). If everyday citizens cannot look at a rule and understand what exactly triggers an enforcement action against them, the rule isn't clear. This ambiguity acts as an administrative trap for naturalized citizens or anyone who has changed their name during their lifetime.

Regarding Rule .0102: Imposes an Unfair Burden and Fails Fiscal Accountability

The 5-Day Window is an Unfair Barrier: This rule gives challenged voters a 5-day window to pull together incredibly restrictive, expensive documentation—like a birth certificate or a \$160 U.S. passport—just to prove their right to vote. Relying on the regular U.S. Postal Service to notify someone means a working citizen might only get a couple of days to respond. This fails the mandate under G.S. § 150B-19.1(a)(2) which requires agencies to actually minimize the administrative and financial burdens placed on citizens. The challenged individual may be employed and find difficulty to bring in documentation to the County Board of Elections, during working hours, more time should be given.

Operational Confusion: The rule is completely silent on whether the State Board or the local County Board of Elections is supposed to mail out this notice. This lack of operational detail is another clear failure of the "Clarity" standard required under G.S. § 150B-21.9(a)(2).

An Unfunded Mandate on Counties: Bypassing an accurate fiscal note by claiming "no economic impact" is a major failure of "Procedural Compliance" under G.S. § 150B-21.4(b1). Processing these labor-intensive manual hearings is going to place a massive financial burden directly on tightly financed county board budgets, which completely contradicts the State Board's fiscal claims.

Regarding Rule .0103: Violates Statutory Authority and Reasonable Necessity

Improperly Shifting the Burden of Proof: This rule, by allowing unverified third-party or groups to challenge voters eligibility based on secret data, without even requiring the challenger to show up to the preliminary hearing. Allowing a silent, unsworn database flag a citizen to show up and "prove their existence" completely flips the legal burden of proof. This directly violates the fundamental presumption of voter eligibility established under North Carolina law in G.S. § 163-90.1(b). Furthermore, letting officials bypass sworn testimony completely contradicts the mandatory dismissal rules in G.S. § 163-85(d). If this is indeed a valid challenge, they should be present at the preliminary hearing.

Inventing a Problem That Doesn't Exist: A 2016 North Carolina State Audit proved that non-citizen voting is statistically non-existent, tracking a microscopic infraction rate of just 0.00085%. Building a massive, taxpayer-funded manual challenge infrastructure to chase a non-existent issue completely fails the statutory test of "Reasonable Necessity" under G.S. § 150B-21.9(a)(3).

Regarding Rule .0104: is Totally Redundant and Lacks Clarity

No Provisional Protections: The rule doesn't explain if a voter can cast a provisional ballot if their paperwork is delayed past the 5-to-20-day hearing window. Leaving out basic voter protections makes the rule incredibly vague and non-compliant with standard clarity guidelines.

Wasteful Technological Redundancy: The State Board's leadership talks about moving into the "digital age" to save money, yet Rule .0104 sets up a slow, manual, paper-heavy process. What makes this a clear violation of "Reasonable Necessity" under G.S. § 150B-19.1(a)(4). North Carolina has already invested \$4.66 million into the ReFrame platform to modernize our State Elections Information Management System (SEIMS). ReFrame was specifically bought to handle real-time data validation securely and automatically. Forcing county staff into a manual workaround when an automated system is already bought and paid for is completely redundant.

Conclusion: When you look at the facts, the State Board of Elections has failed to meet the mandatory rulemaking standards set by the General Assembly. They are pushing through an expensive, labor-intensive system without a proper fiscal note, relying on a database with a known 97.6% error rate, ignoring pre-existing automated software we already bought, and rewriting state statutes on the fly.

Pursuant to [G.S. 150B-21.9], I am formally submitting these comments regarding proposed permanent rules 08 NCAC 23 .0101, .0102, .0103, and .0104.

I respectfully ask that the Rules Review Commission address these serious procedural defects and object to these permanent rules.

Sincerely,

Kathleen A. Rickert
2709 Legion Avenue
Durham, North Carolina 27707
cell 773-329-0847

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Burgos, Alexander N

From: rrc.comments
Sent: Thursday, May 21, 2026 3:53 PM
To: Susan Pochapsky
Cc: Burgos, Alexander N
Subject: Re: [External] Objection to Non-citizen List Maintenance Rules (adopted April 16, 2026 at the NC State Board of Elections)

Good afternoon,

The RRC has received your letter of objection referencing G.S. 150B-21.3.

Could you clarify whether you are requesting legislative review pursuant to subsection (b2) of that law?
Responding by email will suffice.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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From: Susan Pochapsky <schapek@yahoo.com>
Sent: Friday, April 17, 2026 3:38 PM
To: rrc.comments <rrc.comments@oah.nc.gov>
Cc: Susan Pochapsky <schapek@yahoo.com>
Subject: [External] Objection to Non-citizen List Maintenance Rules (adopted April 16, 2026 at the NC State Board of Elections)

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To the NC Rules Review Commission rrc.comments@oah.nc.gov

re: *NON-CITIZEN LIST MAINTENANCE RULES adopted April 16, 2026 at the NC State Board of Elections*
08 NCAC 23 .0101
08 NCAC 23 .0102
08 NCAC 23 .0103
08 NCAC 23 .0104

In accord with **§ 150B-21.3.** , I would like to enter my objections to the rules cited above.

General objection: The rules, as approved, take extreme actions that, given the intention of the State Board to use the frequently outdated and therefore unreliable SAVE database to target "potential noncitizens" in the North Carolina voters roll, will reap few benefits and burden county boards of elections with an unpredictable expenditures of time and money. The procedures in these rules will also cause alarm, public embarrassment, and unlawful expenses to an unpredictable number of honorable citizens.

Rule 1: *08 NCAC 23 .0101*

- I object to the lack of clear list including and excluding the sources of evidence the SBE may use in entering a challenge--this opens the procedure to random malicious challenges by individual and groups;
- I object to what is definitely a poll tax (to acquire the documents required for proof) --in other words, the challenged voter must follow all these rules, but the State Elections Board can pick and choose which laws to follow.

Rule 2: *08 NCAC 23 .0102*

I object to the lack of a clear statement that challenges will not be entered during the 90 days prior to an election--again, these rules require the challenged voter to follow the law, but the State Board can pick and choose which laws to follow--and can demand that County Boards violate the law on the State Board's behalf as well.

Rule 3: *08 NCAC 23 .0103*

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Rule 4: *08 NCAC 23 .0103 4*

- I object to this shocking due process violation: **If the challenged voter or an authorized representative does not appear at the challenge hearing, and the challenged voter has not submitted any documentation of citizenship for the county board's consideration, then the notice of non-citizenship shall be treated by the county board as affirmative proof necessary to sustain the challenge under G.S. 163-90.1(b).**
- I object to the lack of a clear statement that challenges will not be entered during the 90 days prior to an election--again, these rules require the challenged voter to follow the law, but the State Board can pick and choose which laws to follow--and can demand that County Boards violate the law on the State Board's behalf as well.

Thank you for your consideration.

Susan Pochapsky
Durham, NC

112 Assembly Ct
Cary NC 27511

May 20, 2026

To: North Carolina Rules Review Commission
NC Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, NC 27609

RE: Formal Objection & Request for Legislative Review Rule , **08 NCAC 23 .0101 through .0104**
Specifically: Compliance with the Administrative Procedure Act (APA)

Dear RRC:

I object to the "voter maintenance rules " adopted by the State Board of Elections. (**08 NCAC 23 .0101 through .0104**) I request that these rules be subjected to legislative review pursuant to G.S. 150B-21.3 (b2).

I specifically want to draw your attention to Compliance with the Administrative Procedure Act (APA), and want to point out that the Board failed to "fully consider" all 15,000 comments as it is required to do per G.S. 150B-21.2(f). *"An agency must consider fully all written and oral comments received."*

During the 04/16/26 State Board of Elections meeting, we were told that over 14,000 comments were received, and yes, a few administrative changes were made, ignoring the 98% of negative comments on relying on an unreliable database, and forcing false negatives to provide burdensome proof that they are in fact citizens.

My focus, when you watch the tape of the meeting occurs near the 01:46:36 mark, where Mr. Carmon accurately says "You are being tone deaf, what is minor to you ... may be burdensome to others." He later asks "You are going to pass this?" and Chairman De Luca responds, laughing, "Why wouldn't I?". The very fact that Chairman De Luca asks "why wouldn't I?" while laughing, shows he has ignored and/or doesn't understand the concerns of 98% of the commenters. It shows he has NOT considered fully the written and oral comments received. It shows he has NOT met the criteria established by the APA for establishing rules.

Because of this attitude and failure by the board to follow the APA, I formally object and urge this Commission to return these rules to the Agency for proper review. I also request the Commission delay the effective date of these rules.

Sincerely,

Pamela Shank
112 Assembly Ct
Cary NC 27500
Wake County
gigishank@gmail.com

Attachments: (Links to APA and Board Meeting.)

CC: Rulemaking Coordinator
P.O. Box 27255
Raleigh, NC 27611-7255

Burgos, Alexander N

From: rrc.comments
Sent: Thursday, May 21, 2026 3:54 PM
To: Charlotte McGee
Cc: Burgos, Alexander N
Subject: Re: [External] Objections to NON-CITIZEN LIST MAINTENANCE RULES adopted April 16, 2026 at the NC State Board of Elections

Good afternoon,

The RRC has received your letter of objection referencing G.S. 150B-21.3.

Could you clarify whether you are requesting legislative review pursuant to subsection (b2) of that law? Responding by email will suffice.

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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From: Charlotte McGee <cvm@mostlymcgee.com>
Sent: Friday, April 17, 2026 3:50 PM
To: rrc.comments <rrc.comments@oah.nc.gov>
Subject: [External] Objections to NON-CITIZEN LIST MAINTENANCE RULES adopted April 16, 2026 at the NC State Board of Elections

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In accord with **§ 150B-21.3.** , I would like to enter my objections to the rules cited above.

General objection: The rules, as approved, take extreme actions that, given the intention of the State Board to use the frequently outdated and therefore unreliable SAVE database to target "potential noncitizens" in the North Carolina voters rolls, will reap few benefits and burden county boards of elections with an unpredictable expenditures of time and money. The procedures in these rules will

also cause alarm, public embarrassment, and unlawful expenses to an unpredictable number of honorable citizens.

Rule 1: *08 NCAC 23 .0101*

- I object to the lack of clear list including and excluding the sources of evidence the SBE may use in entering a challenge--this opens the procedure to random malicious challenges by individual and groups;
- I object to what is definitely a poll tax (to acquire the documents required for proof) --in other words, the challenged voter must follow all these rules, but the State Elections Board can pick and choose which laws to follow.

Rule 2: *08 NCAC 23 .0102*

I object to the lack of a clear statement that challenges will not be entered during the 90 days prior to an election--again, these rules require the challenged voter to follow the law, but the State Board can pick and choose which laws to follow--and can demand that County Boards violate the law on the State Board's behalf as well.

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Rule 4: *08 NCAC 23 .0103 4*

- I object to this shocking due process violation: **If the challenged voter or an authorized representative does not appear at the challenge hearing, and the challenged voter has not submitted any documentation of citizenship for the county board's consideration, then the notice of non-citizenship shall be treated by the county board as affirmative proof necessary to sustain the challenge under G.S. 163-90.1(b).**
- I object to the lack of a clear statement that challenges will not be entered during the 90 days prior to an election--again, these rules require the challenged voter to follow the law, but the State Board can pick and choose which laws to follow--and can demand that County Boards violate the law on the State Board's behalf as well.

Thank you for your consideration.

Charlotte McGee - Registered Voter

3218 Coachmans Way
Durham,NC 27705

Burgos, Alexander N

From: rrc.comments
Sent: Thursday, May 21, 2026 3:56 PM
To: David Ball
Cc: Burgos, Alexander N
Subject: Re: [External] Non-citizen list Maintenance Rule

Good afternoon,

The RRC has received your letter of objection referencing G.S. 150B-21.3.

Could you clarify whether you are requesting legislative review pursuant to subsection (b2) of that law? Responding by email will suffice.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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From: David Ball <jurywatch@gmail.com>
Sent: Friday, April 17, 2026 4:01 PM
To: rrc.comments <rrc.comments@oah.nc.gov>
Subject: [External] Non-citizen list Maintenance Rule

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to: rrc.comments@oah.nc.gov

re: NON-CITIZEN LIST MAINTENANCE RULES adopted April 16, 2026 at the NC State Board of Elections
08 NCAC 23 .0101
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Rule 1: *08 NCAC 23 .0101*

- oI object to the lack of clear list including and excluding the sources of evidence the SBE may use in entering a challenge--this opens the procedure to random malicious challenges by individual and groups;
- oI object to what is definitely an illegal poll tax (it usually costs money to acquire the documents specified as required for proof) --in other words, the challenged voter must follow all these rules, but the State Elections Board can pick and choose which laws to follow.

Rule 2: *08 NCAC 23 .0102*

I object to the lack of a clear statement that challenges will not be entered during the 90 days prior to an election--again, these rules require the challenged voter to follow the law, but the State Board gets to pick and choose which laws to follow--and can demand that County Boards violate the law on the State Board's behalf as well.

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Thank you for your consideration.

David Ball
Durham, NC

Malekpour & Ball Trial Consulting

Artemis Malekpour artemis@consultmmb.com

919 932-7904

David Ball jurywatch@gmail.com

919 656-3369

Burgos, Alexander N

From: rrc.comments
Sent: Thursday, May 21, 2026 3:57 PM
To: Jane Robbins
Cc: Burgos, Alexander N
Subject: Re: [External] Comment on Permanent Rules re: Non-Citizen List Maintenance

Good afternoon,

The RRC has received your letter of objection referencing G.S. 150B-21.3.

Could you clarify whether you are requesting legislative review pursuant to subsection (b2) of that law? Responding by email will suffice.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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From: Jane Robbins <jmurobbins@gmail.com>
Sent: Friday, April 17, 2026 4:08 PM
To: rrc.comments <rrc.comments@oah.nc.gov>
Subject: [External] Comment on Permanent Rules re: Non-Citizen List Maintenance

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Rule 1: 08 NCAC 23 .0101

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Thank you for your consideration.

Thanks,
Jane Robbins
 Durham, NC

Burgos, Alexander N

From: rrc.comments
Sent: Thursday, May 21, 2026 3:57 PM
To: Susan Sewell
Cc: Burgos, Alexander N
Subject: Re: [External] I object to NON-CITIZEN LIST MAINTENANCE RULES adopted April 16, 2026 at the NC State Board of Elections

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(984) 236-1934

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From: Susan Sewell <mssewell2009@gmail.com>
Sent: Friday, April 17, 2026 4:04 PM
To: rrc.comments <rrc.comments@oah.nc.gov>
Subject: [External] I object to NON-CITIZEN LIST MAINTENANCE RULES adopted April 16, 2026 at the NC State Board of Elections

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NON-CITIZEN LIST MAINTENANCE RULES adopted April 16, 2026 at the NC State Board of Elections

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Mary Sewell

2904 Legion Ave
Durham, NC 27707

Burgos, Alexander N

From: rrc.comments
Sent: Thursday, May 21, 2026 3:58 PM
To: Judy Hays
Cc: Burgos, Alexander N
Subject: Re: [External] Non Citizen List ...STOP Sharing Voter Rolls

Good afternoon,

The RRC has received your letter of objection referencing G.S. 150B-21.3.

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Counsel to the North Carolina Rules Review Commission
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(984) 236-1934

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From: Judy Hays <judyhaysnc@gmail.com>
Sent: Friday, April 17, 2026 4:20 PM
To: rrc.comments <rrc.comments@oah.nc.gov>
Subject: [External] Non Citizen List ...STOP Sharing Voter Rolls

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I object to the lack of a clear statement that challenges will not be entered during the 90 days prior to an election--again, these rules require the challenged voter to follow the law, but the State Board can pick and choose which laws to follow--and can demand that County Boards violate the law on the State Board's behalf as well.

Rule 4: 08 NCAC 23 .0103 4

- I object to this shocking due process violation: **If the challenged voter or an authorized representative does not appear at the challenge hearing, and the challenged voter has not submitted any documentation of citizenship for the county board's consideration, then the notice of non-citizenship shall be treated by the county board as affirmative proof necessary to sustain the challenge under G.S. 163-90.1(b).**
- I object to the lack of a clear statement that challenges will not be entered during the 90 days prior to an election--again, these rules require the challenged voter to follow the law, but the State Board can pick and choose which laws to follow--and can demand that County Boards violate the law on the State Board's behalf as well.

Thank you for your consideration.

Burgos, Alexander N

From: rrc.comments
Sent: Thursday, May 21, 2026 3:57 PM
To: S HP
Cc: Burgos, Alexander N
Subject: Re: [External] NON-CITIZEN LIST MAINTENANCE RULES adopted April 16, 2026 at the NC State Board of Elections

Good afternoon,

The RRC has received your letter of objection referencing G.S. 150B-21.3.

Could you clarify whether you are requesting legislative review pursuant to subsection (b2) of that law?
Responding by email will suffice.

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

From: S HP <shp2425@hotmail.com>
Sent: Friday, April 17, 2026 4:15 PM
To: rrc.comments <rrc.comments@oah.nc.gov>
Subject: [External] NON-CITIZEN LIST MAINTENANCE RULES adopted April 16, 2026 at the NC State Board of Elections

You don't often get email from shp2425@hotmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

To the NC Rules Review Commission rrc.comments@oah.nc.gov

re: *NON-CITIZEN LIST MAINTENANCE RULES adopted April 16, 2026 at the NC State Board of Elections*

08 NCAC 23 .0101

08 NCAC 23 .0102

08 NCAC 23 .0103

In accord with § 150B-21.3. , I would like to enter my objections to the rules cited above.

General objection: The rules, as approved, take extreme actions that, given the intention of the State Board to use the frequently outdated and therefore unreliable SAVE database to target "potential noncitizens" in the North Carolina voters rolls, will reap few benefits and burden county boards of elections with an unpredictable expenditures of time and money. The procedures in these rules will also cause alarm, public embarrassment, and unlawful expenses to an unpredictable number of honorable citizens.

Rule 1: 08 NCAC 23 .0101

- I object to the lack of clear list including and excluding the sources of evidence the SBE may use in entering a challenge--this opens the procedure to random malicious challenges by individual and groups;
- I object to what is definitely a poll tax (to acquire the documents required for proof) --in other words, the challenged voter must follow all these rules, but the State Elections Board can pick and choose which laws to follow.

Rule 2: 08 NCAC 23 .0102

I object to the lack of a clear statement that challenges will not be entered during the 90 days prior to an election--again, these rules require the challenged voter to follow the law, but the State Board can pick and choose which laws to follow--and can demand that County Boards violate the law on the State Board's behalf as well.

Rule 3: 08 NCAC 23 .0103

I object to the lack of a clear statement that challenges will not be entered during the 90 days prior to an election--again, these rules require the challenged voter to follow the law, but the State Board can pick and choose which laws to follow--and can demand that County Boards violate the law on the State Board's behalf as well.

Rule 4: 08 NCAC 23 .0103 4

- I object to this shocking due process violation: **If the challenged voter or an authorized representative does not appear at the challenge hearing, and the challenged voter has not submitted any documentation of citizenship for the county board's consideration, then the notice of non-citizenship shall be treated by the county board as affirmative proof necessary to sustain the challenge under G.S. 163-90.1(b).**
- I object to the lack of a clear statement that challenges will not be entered during the 90 days prior to an election--again, these rules require the challenged voter to follow the law, but the State Board can pick and choose which laws to follow--and can demand that County Boards violate the law on the State Board's behalf as well.

Thank you for your consideration.

Steven Pollak
110 Turnstone Drive
Durham, NC 277.03

Deborah J Oronzio

5300 Arete Way | Raleigh, NC 27607 | 919.280.5228 | djodemocracy@gmail.com

Executive Summary

These formal comments highlight four distinct statutory failures in the North Carolina State Board of Elections (NCSBE) filing for rules [\[08 NCAC 23 .0101 - .0104\]](#). Most notably, the agency has bypassed mandatory fiscal accountability by claiming "no economic impact" for a project whose manual procedural requirements scale—using a validated historical baseline—to a liability that appears dangerously close to the **\$1,000,000 five-year threshold** established in [\[G.S. 150B-21.4\(b1\)\]](#) in the first year of implementation alone.

Beyond the fiscal data, the public record reflects a profound lack of clarity and necessity. This submission incorporates the voices of approximately **4,800 commenters**, including nearly 500 election professionals, who warned the agency that these rules create a technologically redundant and labor-intensive "trap." This report demonstrates that the rules fail to meet the standards of **Procedural Compliance, Statutory Authority, Clarity, and Reasonable Necessity**.

To the Members of the Rules Review Commission and Reviewing Staff:

Pursuant to [\[G.S. 150B-21.9\]](#), I am formally submitting these comments regarding proposed permanent rules **08 NCAC 23 .0101, .0102, .0103, and .0104**. This submission demonstrates that the NCSBE has failed to meet the mandatory standards for rulemaking established by the General Assembly. This analysis proves the Board initiated high-cost enforcement actions without the required fiscal note, while utilizing a database with a **97.6% error rate** to trigger a manual challenge process that contradicts state law and overlooks pre-existing automated solutions.

Comments to the Proposed Rules

Pillar 1: Procedural Compliance

Comment Argument: The NCSBE failed to adhere to the mandatory administrative procedures for rulemaking and fiscal accountability required by the [\[Administrative Procedure Act \(APA\)\]](#).

- **The Predictive Liability Model:** Applying the manual requirements of [\[Rule 08 NCAC 23 .0102\]](#) and [\[Rule 08 NCAC 23 .0104\]](#) to a parallel population of 506 flagged voters (a baseline established by the state's own 2016 Post-Election Audit) results in a projected liability of **\$700,177** (see **Exhibit A**).
- **The Five-Year Threshold:** While the agency filed a "zero-impact" claim, this model indicates that **70% of the five-year statutory allowance could be consumed** in a single implementation cycle.
- **The Growth Factor and Unfunded Mandate:** North Carolina's voter base of **7.5 million** is among the fastest-growing in the nation. It is mathematically certain that the **\$1,000,000** threshold will be breached within the five-year window.
 - **Stakeholder Warning (Human Voice):** **500 individuals** identifying as local election staff warned of a **"crushing administrative burden"** that current local budgets cannot absorb. By ignoring these warnings, the agency failed to base its filing on sound economic information as required by [\[G.S. 150B-19.1\(a\)\(5\)\]](#).

- **Failure to Consider Alternatives:** The agency bypassed the requirement under [G.S. 150B-21.4(b2)(5)] to describe at least two alternatives and explain why they were rejected.
- **Lack of NPV Analysis:** The agency failed to perform the required [G.S. 150B-21.4(b1)(5)] calculation using the mandated **7% discount factor**.
 - **'The Human Voice'** – Approximately **496 election professionals (3.2% of total commenters)** warned of a **"crushing administrative burden"**. These experts identified the 5-business-day manual review and mandatory court reporting as an impossible, unfunded mandate that current local budgets cannot absorb.

Pillar 2: Statutory Authority and Burden of Proof

Comment Argument: The NCSBE has exceeded its statutory authority by enacting rules that contradict the evidentiary standards established in [G.S. 163-85] and [G.S. 163-86].

- **Violation of the Dismissal Mandate:** [Rule .0103(b)] states that an official entering a challenge "shall not be required to present sworn testimony." This directly conflicts with the mandatory dismissal requirement of [G.S. 163-85(d)], which explicitly requires that **if no testimony is presented, the board shall dismiss the challenge**.
- **Creation of Unauthorized Default Judgment:** [Rule 08 NCAC 23 .0104(c)(6)] treats a voter's "failure to appear" as "affirmative proof" to sustain a challenge. This shifts the burden of proof onto the voter, contradicting [G.S. 163-90.1(b)], which establishes the presumption that a voter is properly registered unless substantiated by affirmative proof.
 - **'The Human Voice'** – Over **3,765 commenters (24.3%)** specifically objected to treating a voter's absence as proof of non-citizenship. Citizens expressed in approximately 1,200 unique comments that being forced to 'prove their eligibility' based on a silent agency flag violates the intent of state law.

Pillar 3: Clarity and Ambiguity

Comment Argument: The proposed rules fail to meet the clarity standard of [G.S. 150B-21.9(a)(2)], creating a "chilling effect."

- **Undefined Enforcement Triggers:** [Rule 08 NCAC 23 .0101(9)] uses the subjective term **"potential noncitizen"** without defining the evidentiary threshold required to trigger a challenge.
- **The Infinite Continuation Loop:** [Rule 08 NCAC 23 .0104(a)] allows boards to "continue the hearing to a future date" without a maximum timeframe, creating a procedural limbo.
 - **'The Human Voice'** – An estimated **2,100 comments** highlighted that the lack of specificity prevents citizens from understanding what triggers an enforcement action, leading to significant voter anxiety. Commenters noted that the term "potential noncitizen" is a dangerous ambiguity that allows any government record—no matter how outdated—to be used to threaten their right to vote.

Pillar 4: Reasonable Necessity

Comment Argument: The proposed rules are not "reasonably necessary" under [G.S. 150B-21.9(a)(3)].

- **Technological Redundancy (ReFrame):** The manual processes are redundant under [G.S. 150B-

19.1(a)(4)] given the state's investment in the **ReFrame** automated system.

- While the state has invested **\$4.66 million** in the **ReFrame Solutions platform**, which is capable of real-time, automated data validation, the agency has failed to provide a rational explanation for choosing a manual, labor-intensive alternative. Selecting a more expensive and less accurate manual process when a technologically superior automated system has already been procured is **arbitrary and capricious** under G.S. 150B-19.1(a)(4).
- **Reliance on Unsound Information:** Utilizing the **SAVE database** (known for a **97.6% error rate** in voter list maintenance) violates the duty to base rules on sound technical information under [G.S. 150B-19.1(a)(5)].
 - **Absence of a Stopgap Measure:** The rules fail to "reduce the burden" on citizens as required by [G.S. 150B-19.1(a)(2)]. There is no measure preventing previously cleared citizens from being re-flagged annually. Naturalized citizens identified the "**fear of being perpetually re-flagged**," a cycle that is not "reasonably necessary" under [G.S. 150B-21.9(a)(3)].
 - **'The Human Voice'** – Over **1,500 commenters** questioned why data validation is handled manually when automated systems like **ReFrame** exist for this purpose. Furthermore, **3,842 commenters (24.8%)** highlighted the unreliability of federal databases, with naturalized citizens expressing a valid "**fear of being perpetually re-flagged**" in an expensive, stressful cycle.

The evidence provided herein demonstrates a systemic failure by the NCSBE to adhere to the North Carolina Administrative Procedure Act. By opting for a manual hearing process that ignores recent multi-million dollar technological investments, and by shifting the burden of proof onto the voter in direct contradiction of state statute, these rules create a procedurally perverted mechanism that is both fiscally irresponsible and legally indefensible.

Based on these identified infractions, I respectfully request that the Rules Review Commission **object** to rules **08 NCAC 23 .0101, .0102, .0103, and .0104**. These rules should be returned to the agency to address the lack of a mandatory fiscal note, to properly summarize and respond to the 15,445 public comments currently absent from the filing, and to align the procedures with existing North Carolina General Statutes.

Thank you for your attention and consideration of this matter.

Sincerely,



Signature

Deborah J. Oronzio

Multiple attachments

Exhibit A – Risk Management Analysis: 2016 Audit Cost Simulation

Risk Management Analysis: This analysis serves as a Risk Management Analysis to evaluate the fiscal impact of proposed rules 08 NCAC 23 .0101, 08 NCAC 23 .0102, 08 NCAC 23 .0103, and 08 NCAC 23 .0104. By applying the manual procedural requirements to the 2016 investigative pool of 506 voters, we establish the "break-even" point where administrative costs trigger mandatory fiscal reporting under state law.

The Baseline: The 2016 Audit Investigative Pool While the 2016 audit ultimately confirmed 41 non-citizens, it required an initial investigative pool of approximately 508 individuals identified as potentially ineligible.

- **The Supposition:** Under the proposed rules, every individual in this investigative pool (approx. 506 voters) would be forced through the tiered challenge process mandated by 08 NCAC 23 .0102 and 08 NCAC 23 .0104.
- **Methodology:** This simulation uses these 506 voters to generate a mathematical projection of the labor and administrative resources required.

Risk Analysis: Itemized Liability Projection The following table itemizes the estimated costs for processing the investigative pool based on procedural requirements.

| Cost Category | Procedural Requirement | Estimated Unit Cost | Labor/Volume Assumption | Total Liability (506 Voters) |
|----------------------------------|--|----------------------------|----------------------------|------------------------------|
| Staff Manual Review | 5-Day county staff search per <u>08 NCAC 23 .0102</u> | \$15.00 - \$22.00 / hour | 1 hour per voter flag | \$7,590 - \$11,132 |
| Certified Mailings | Mandatory notice to voter per <u>08 NCAC 23 .0102</u> | \$6.00 - \$9.00 / mailing | 1 notice per flagged voter | \$3,036 - \$4,554 |
| Court Reporters | Mandatory transcript per <u>08 NCAC 23 .0104</u> | \$150 - \$300 / appearance | 1 reporter per hearing | \$151,800 - \$228,091 |
| Legal Counsel | Representation for County Boards per <u>08 NCAC 23 .0104</u> | \$200 - \$400 / hour | 3 hours (Prep + Hearing) | \$303,600 - \$455,400 |
| TOTAL PROJECTED LIABILITY | | | | \$700,177 |

Note on Certified Mailings: The projected cost for certified mailings represents a best-case scenario; a 100% successful delivery rate is not guaranteed.

The Inevitable Breach North Carolina adds over 165,000 new residents annually. Coupled with the documented 97.6% error rate in the SAVE database for voter list maintenance, the pool of "potential non-citizens" will mathematically exceed the 2016 investigative baseline almost immediately. This ensures that the \$1,000,000 five-year threshold established in G.S. 150B-21.4(b1) will be breached within the first implementation cycle. This represents a direct violation of the agency's duty to base rules on sound

economic and technical information as required by G.S. 150B-19.1(a)(5).

It must be explicitly noted that the projected **\$700,177 Year 1 liability** identified in this simulation constitutes an **unfunded mandate**. These costs—including legal counsel and mandatory court reporters—fall entirely upon **individual county budgets** rather than the State Board. This direct fiscal impact on local government contradicts the agency's "no economic impact" claim and violates the local government consultation spirit of G.S. 150B-21.4(b1).

Appendix A: Information Sources

Statutory & Regulatory References

- **North Carolina Administrative Procedure Act (APA) - Chapter 150B**
 - Purpose: This is the primary statute governing all rulemaking and adjudicatory procedures in North Carolina. It establishes the legal standards of Procedural Compliance, Statutory Authority, Clarity, and Reasonable Necessity that the RRC must apply.
- **G.S. 150B-21.9: RRC Standards of Review**
 - Purpose: Defines the specific legal criteria the RRC must use to object to a rule.
- **G.S. 150B-21.4: Fiscal Note Requirements**
 - Purpose: Mandates a certified fiscal note for any rule with an aggregate financial impact of \$1 million or more.
- **G.S. 163-85: Voter Challenges & Burden of Proof**
 - Purpose: Establishes that the burden of proof in voter challenges rests with the challenger, not the voter.
- **G.S. 150B-21.9: RRC Standards of Review**
 - Purpose: Determines whether a rule meets all of the established criteria.

NCSBE Official Records & Press Releases

- **NCSBE Press Release (April 27, 2026): "State Board Identifies 34,000 Deceased Voters"**
 - Purpose: Confirms the 34,000-voter population used in Scenario B of your fiscal analysis and proves the Board is already utilizing the SAVE database for sweeps.
- **NCSBE Press Release (March 24, 2026): "Hayes Praises Smooth Primary Election"**
 - Purpose: Highlights the contradiction in the "Reasonable Necessity" argument; the Board officially reported "no major disruptions or administrative issues" just weeks before claiming these rules were urgent.
- **NCSBE SEIMS Modernization (Feb 25, 2026): Selection of ReFrame Solutions**
 - Purpose: Confirms the \$4.66 million contract for the automated system that renders the manual rules technologically redundant.
 - <https://www.ncsbe.gov/news/press-releases/2026/05/13/one-year-director-hayes-highlights-major-initiatives-and-achievements-state-board>
- **NCSBE Press Release (Feb 3, 2026): "State Board Sends Letters to Voters with Unvalidated Identification Numbers"**
 - Purpose: Factually establishes the 241,000-voter pool for Scenario C, demonstrating the massive fiscal liability if these high-cost manual challenge rules are applied to existing unvalidated records.

- **NCSBE Press Release (Nov 26, 2025) State Board Preserves Citizen Voting Integrity by Initiating SAVE Agreement**
 - Purpose: Documents the 5-month gap between contract execution (Nov '25) and rule-based enforcement (Apr '26), confirming the Board's strategic delay and subsequent premature execution of list maintenance sweeps.
- **NCSBE 2016 Post-Election Audit Report**
 - Purpose: Provides the empirical data for Scenario A, showing only 41 ineligible non-citizens were found in a pool of 4.8 million voters.

Evidence of Database Inaccuracy (SAVE System)

- **DOJ Letter to Florida Secretary of State (2012)**
 - Purpose: A legal document from the U.S. Department of Justice detailing why the SAVE database is unreliable for determining voter citizenship status.
- **Brennan Center for Justice: Florida Voter Purge Analysis**
 - Purpose: Documents the 97.6% error rate identified when Florida attempted to use the SAVE database for systematic voter challenges—the same methodology the NCSBE is now proposing.
- **DHS/USCIS SAVE Privacy Impact Assessment**
 - Purpose: Federal documentation stating the SAVE system is designed for benefit eligibility, contains known data lags for naturalized citizens, and was not built for voter list maintenance.
- **Texas Election Review Flags 2,724 Potential Noncitizens (Oct 27, 2025)**
 - Purpose: Serves as a comparative case study proving that initial SAVE database flags are overwhelmingly "potential" rather than confirmed, leading to high administrative costs for a negligible confirmed result.

Exhibit Data

- **NCSBE 2016 Post-Election Audit Report:** [https://s3.amazonaws.com/dl.ncsbe.gov/Audit Results 2016 Post-Election Audit Report.pdf](https://s3.amazonaws.com/dl.ncsbe.gov/Audit%20Results%202016%20Post-Election%20Audit%20Report.pdf)
- G.S. 150B-21.4: https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_150B/Statute_150B-21.4.html
- G.S. 150B-19.1: https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_150B/Statute_150B-19.1.html
- **SAVE Database Error Analysis (Florida Baseline):** <https://www.brennancenter.org/our-work/analysis-opinion/floridas-non-citizen-voter-purge-976-error-rate>

- **NC OSBM: State Demographics & Domestic Migration Data:** <https://demography.osbm.nc.gov/explore/dataset/projection-by-age-and-sex/information/>

Modernization & Technology Architecture Platforms

- **StateScoop Infrastructure Article:** <https://statescoop.com/north-carolina-elections-system-reframe-solutions/>
- **ReFrame Solutions Vendor Software Portal:** <https://reframesolutions.com/elections/>

Appendix B: Specific Comments to the Principal Reasons Response Received from Adam Steele, NCSBE

Although the response to this inquiry was received within the allowable timeframe, there are inconsistencies as compared to my analysis. Here is the original email response followed by my counter comments:

From: **SVC_SBOE.RuleMaking** <RuleMaking.SBOE@ncsbe.gov>

Date: Mon, May 11, 2026 at 11:57 AM

Subject: RE: [External] FORMAL REQUEST: Statement of Principal Reasons - Rules 08 NCAC 01 .0101 - .0104

To: DJ Oronzio <djdemocracy@gmail.com>, SVC_SBOE.RuleMaking <RuleMaking.SBOE@ncsbe.gov>

Good afternoon,

The State Board of Elections has adopted the rules to be codified in Chapter 23 of Title 08 because it has general oversight of elections and the county boards of elections in this state, is authorized to conduct list maintenance and remove the names of ineligible voters from the voter rolls, and has been directed in statute to promulgate rules for voter registration and list maintenance. N.C.G.S. 163-22, -82.14, and -82.26. It is a constitutional requirement to be a citizen of the United States in order to vote. N.C. Const. art VI, § 1. Conducting a noncitizen list maintenance program is therefore a policy choice of the agency.

Reasons for adoption of the rules include that the rules support election integrity and that the process proposed is transparent and reasonable. Moreover, these four newly adopted rules provide additional direction to the county boards of elections on carrying out procedures for conducting list maintenance based on a registered voter's possible ineligibility due to not being a citizen of the United States. The rules do so in a manner that ensures a noncitizen voter is only removed after the voter has been given ample notice and a meaningful opportunity for them to respond and correct the record by relying on the process and procedures in N.C.G.S. §§ 163-85 and -86.

Reasons against adopting these rules would include that agency time and resources could be spent on other tasks because there is already a statutory process in place for voter registration challenges. Additionally, reasons offered against adoption of the rules include general opposition to any list maintenance efforts involving the federal SAVE database, that the rules will depress voting by lawful citizens, and that a noncitizen list maintenance program in general is a burden on state and county board resources for little return because noncitizen voting is rare. These arguments are all largely about a policy choice to implement a noncitizen list maintenance program, rather than opposition to specified aspects of the rules themselves.

With respect to more specific objections to the rules, some commenters objected that the process will be burdensome to voters or require them to pay for documentation. The rules, however, require the county boards of elections to continue hearings as long as needed for a voter to obtain a document, do not require a specific type of documentation, and require the county boards to take into account testimony provided by a voter even in the absence of any documentation at all.

Some commenters also objected on the grounds that the rules should require certain materials be available in different languages, that the rules will largely impact voters with name variations, and that the rules should explicitly say the boards of elections will not violate the National Voter Registration Act. The State Board, however, is not required by law to provide materials in different languages, the adopted rules account for name variations, and the State Board is already required by law to comply with the NVRA.

Finally, some commenters objected on the grounds that the final removal decision should require heightened evidentiary standards than what is in the adopted rule. This list maintenance process, however, will only begin with official records and information from a governmental source, and a voter cannot be removed from the voter rolls under the rules unless they cancel their own registration or the county board can confirm they received notice and an opportunity to be heard.

Thanks,

Adam Steele | Deputy General Counsel

North Carolina State Board of Elections

430 N Salisbury Street

Raleigh, NC 27611

Main Line: 919.814.0700

Direct: 919.814.0654

Analysis of the State Board of Elections' Principal Reasons for Rule Adoption

Based on the formal "Statement of Principal Reasons" provided by the **NCSBE** through Deputy General Counsel Adam Steele, several justifications for rules 08 NCAC 23 .0101, .0102, .0103, and .0104 directly conflict with the evidence presented in the formal comments. The following analysis identifies specific areas where the agency's rationale is legally and factually flawed.

Failure of Fiscal Accountability

The agency characterizes the "crushing administrative burden" on state and county resources as a mere "policy choice" rather than a fiscal reality.

- **Objection Point:** While the agency dismisses resource concerns as a "burden for little return," the **Predictive Liability Model** proves this is a mandatory fiscal issue. Using a validated investigative pool of **506 voters** from the **2016 North Carolina State Audit**, a Year 1 liability of **\$700,177** is projected, as shown earlier.
- **Statutory Conflict:** This trajectory makes it "mathematically certain" that the **\$1,000,000** five-year threshold established in G.S. 150B-21.4(b1) will be breached. The agency's failure to provide a formal fiscal note violates the Administrative Procedure Act.
- **Proposed Delay:** Rule adoption should be stayed until the **NCSBE** identifies the exact number of individuals flagged in the current verification of **7 million records**. This will provide a substantiated number against which these numbers can be calculated.

Reliance on Unsound Technical Information

The agency claims the process is "transparent and reasonable" and "begins with official records". The agency asserts that the challenge process is sound because it "begins with official records". However, G.S. 150B-19.1(a)(5) requires that rules be based on **sound technical information**. A federal database such as **SAVE**, which possesses a documented **97.6% false-positive rate** for voter maintenance, does not legally meet the standard of "sound" information required for such high-stakes enforcement.

- **Objection Point:** The agency glosses over "general opposition" to the **SAVE database** without addressing its documented technical failure. Professional stakeholder testimony and independent reports demonstrate that the **SAVE database** has a **97.6% error rate** when used for voter list maintenance.
- **Statutory Conflict:** Relying on a tool with a near-total error rate violates the agency's mandate under G.S. 150B-19.1(a)(5) to base rules on sound technical information.

Violation of the "Reasonable Necessity" Standard

The agency argues that because it has "general oversight," these rules are necessary.

- **Objection Point:** These manual procedures are redundant because North Carolina has already invested **\$4.66 million** in the **ReFrame** automated system, which is equipped to manage data verification (see specifications following).
- **Statutory Conflict:** Under G.S. 150B-19.1(a)(4), rules must not be redundant, and under G.S. 150B-19.1(a)(2), they must reduce the burden on those affected. The lack of a "stopgap" creates a "perpetual loop" where naturalized citizens face annual challenges due to database inaccuracy.

Contradiction of Statutory Burden of Proof

The agency claims the rules ensure a noncitizen is only removed after a "meaningful opportunity" to respond.

- **Objection Point:** The agency defends 08 NCAC 23 .0104(c)(6), which treats a voter's "failure to appear" as "affirmative proof" to sustain a challenge.
- **Statutory Conflict:** This shifts the burden onto the voter to "prove their existence," directly contradicting G.S. 163-90.1(b), which presumes a voter is properly registered unless substantiated by affirmative proof from the challenger. Furthermore, 08 NCAC 23 .0103(b) allows the skipping of sworn testimony, violating the mandatory dismissal requirements of G.S. 163-85(d).

ReFrame System: Automated Technical Specifications and Capabilities

The ReFrame Solutions platform, recently selected through a \$4.66 million contract to modernize the State Elections Information Management System (SEIMS), provides a suite of automated features that directly address the administrative challenges cited in the proposed rules. The following specifications highlight how this system serves as a technologically superior and less burdensome alternative to manual list maintenance:

Core System Capabilities

- **Real-Time Data Validation:** The platform features secure integration with external state and federal databases for instant identity verification, reducing the need for manual staff searches.
- **Cloud-Native Architecture:** Operates as a fully cloud-hosted system that eliminates paper-dependent workflows and allows for secure, scalable access across all 100 counties.

- **Automated Workflow Management:** Incorporates configurable workflows to manage voter registration and list maintenance, ensuring uniform compliance without manual procedural "traps".
- **Audit Trails and Logging:** Provides real-time logging and comprehensive audit trails for every transaction, ensuring that every list maintenance action is transparent and defensible.

Advanced List Maintenance Features

- **Registration Repair Integration:** Designed to streamline the collection of missing ID data (e.g., partial Social Security or Driver's License numbers) required for federal and state compliance.
- **Configurable Data Dashboards:** Offers real-time dashboards for election administrators to monitor registration trends and accuracy rates without intensive manual reporting.
- **Identity Verification Modules:** Specifically built to unify core election functions, including the automated cross-referencing of voter records against authorized government sources.

Security and Compliance Standards

- **Security Frameworks:** The system meets rigorous standards, including NIST 800-53 r5 compliance and SOC 2 certification, ensuring the integrity of voter data during high-volume list maintenance.
- **Role-Based Access Control:** Restricts data access to authorized personnel, preventing the unauthorized or accidental flagging of eligible voters.

Appendix C: Overall Public Sentiment (initial comment analysis performed)

I conducted an analysis of the public comments files posted to the NCSBE website. I shared some of this information orally at the 4/16/2026 meeting and provided a copy to Brian DeVecchio for the files.

Analysis of the comment files posted by the NCSBE conducted by me with the use of Google Gemini.

Overall Sentiment Analysis

Of the 15,445 total submissions received during the March 2026 comment period:

- **Opposed/Requesting Changes: 98.3%** (~15,182 comments)
 - *Primary Reasons:* Concerns over using outdated DMV data, the administrative burden of the 5-day "Trigger," lack of sworn testimony in preliminary hearings, and potential violations of the federal 90-day "Quiet Period" (NVRA).
- **Supporting as Written: 1.7%** (~263 comments)
 - *Primary Reasons:* Support for a standardized, statewide process to ensure voter roll integrity and clear documentation requirements.

The Rule Assembly Line: Detailed Breakdown

1. Rule .0101: The Input (Definitions)

This rule acts as the intake valve for the entire process. It defines what constitutes "government records" and acceptable citizenship documentation.

- **Total Comments for this Rule:** ~8,500
- **Approx. Against:** 8,300 | **Approx. For:** 200slightly
- **Representative Comments:**
 1. *"The definition of 'government records' is dangerously vague; using unverified DMV data leads to false flags."*
 2. *"This rule provides a much-needed standardized baseline for documentation across the state."*
 3. *"Fails to account for derivative citizenship; legal citizens will be flagged without traditional certificates."*
 4. *"The definitions accurately reflect NC statutory law while removing local bias from the process."*
 5. *"Without a definition of 'reliable' data, this allows for the use of notoriously inaccurate third-party lists."*

2. Rule .0102: The Trigger (Entry of Challenge)

Once data is received, this rule pulls the lever. It mandates that County Boards must initiate a challenge within **5 business days** of a state notification.

- **Total Comments for this Rule:** ~12,000
- **Approx. Against:** 11,750 | **Approx. For:** 250
- **Representative Comments:**
 1. *"A 5-day window is an impossible unfunded mandate for small, understaffed county*

boards."

2. "Speed is essential; the County Board shouldn't sit on identified noncitizen data for weeks."
3. "This timeline ignores the federal 'Quiet Period' (90 days before an election) required by the NVRA."
4. "The rule should require personal verification of a data match before the 5-day clock starts."
5. "This 'rush to purge' will lead to clerical errors that disenfranchise legal voters right before an election."

3. Rule .0103: The Filter (Preliminary Challenge)

This is the first gate where the Board decides if "probable cause" exists. The voter is not present, and the official providing the data is not required to be under oath.

- **Total Comments for this Rule:** ~9,500
- **Approx. Against:** 9,300 | **Approx. For:** 200
- **Representative Comments:**
 1. "How can a board find 'probable cause' based on a report that isn't even under oath? It violates due process."
 2. "This hearing is a vital safeguard to toss out meritless challenges before they ever bother a citizen."
 3. "Labeling a voter a 'Presumptive Noncitizen' at this stage is a public smear based on potential data typos."
 4. "The rule treats the official's action as ministerial, but the law requires testimony under oath."
 5. "Lack of mandatory face-to-face review means the Board is rubber-stamping a computer algorithm."

4. Rule .0104: The Final Verdict (Challenge Hearing)

The end of the line. This is a formal evidentiary hearing where the voter's registration is officially at stake. Critics argue this shifts the burden of proof onto the voter.

- **Total Comments for this Rule:** ~7,000
 - **Approx. Against:** 6,850 | **Approx. For:** 150
 - **Representative Comments:**
 1. "Requiring a voter to appear in person to defend their citizenship is essentially a modern-day poll tax."
 2. "This provides a formal legal setting where a voter can quickly clear up misunderstandings on the record."
 3. "The 10-day notice requirement is too short for those with disabilities or limited transportation."
 4. "The rule must allow for remote participation or written affidavits to count as a 'Final Oath'."
 5. "Decisions must be part of the voter's non-public record to ensure transparency without compromising privacy."
-

Appendix D: Updated Analysis of 15k Public Comments Received

It is important to note that there is no evidence that the NCSBE conducted any analysis along these lines. Their position surrounding the comments received is vague, and in direct opposition to the 98% of citizens who oppose one or more of these rules.

NCSBE Comments Analysis & Rule Review Commission (RRC) Game Plan

This comprehensive analysis serves as our complete strategic briefing for the upcoming Rules Review Commission (RRC) meeting and the subsequent Rule of 10 submission. It integrates public sentiment data, detailed evaluation of the adopted rules, fiscal modeling of the unfunded mandate, and the specific procedural challenges for your testimony.

The Big Picture: Public Sentiment Summary

This section provides the total volume of public feedback received via the portal, email, and hand-delivered documents.

| Category | Total Comments | % Against (Opposition) | % For (Support) |
|-----------------------------|----------------|------------------------|-------------------|
| Combined (All Rules) | 15,483 | 98.2% (15,204) | 1.8% (279) |

Analysis:

Public sentiment is overwhelmingly opposed to the proposed rules. The primary drivers for opposition include concerns regarding voter suppression, the unreliability of federal databases, and the **total omission of the 90-day "quiet period"** protections required by the National Voter Registration Act (NVRA). Supporting comments focused on the perceived need for increased voter roll integrity.

Source References:

- Analysis of *List Maintenance Portal Comments (.0101-.0104)*, *Email Comments*, and *Hand-Delivered Comments*.
- **Opposition Themes:** *List Maintenance Portal Comments .0104.csv* regarding 90-day quiet period and database unreliability.

Top Sensitive Issues and Stakeholder Concerns

This table highlights the specific angles of opposition, sorted by frequency, including targeted critiques regarding the administrative and financial weight of these mandates.

| Sensitive Issue | Total Comments (%) | % Against | % For |
|---|----------------------|--------------|-------|
| Unreliability of SAVE Database: Objections to using a federal database with high false-positive rates for naturalized citizens. | 3,842 (24.8%) | 99.2% | 0.8% |

| | | | |
|---|--------------------------|--------------|------|
| Name Changes & Marriage: Concerns that female citizens with name discrepancies will be erroneously flagged. | 3,815 (24.6%) | 99.8% | 0.2% |
| Non-Appearance as Proof: Opposition to treating a voter's absence from a hearing as "affirmative proof" of non-citizenship. | 3,765 (24.3%) | 99.7% | 0.3% |
| Administrative Burden on County Boards: Critiques of the unfunded mandate, 5-day manual search window, and costs of court reporters. | 496 (3.2%) | 100% | 0% |
| Use of Automated Systems: Comments requesting the use of automated systems rather than the manual 5-day search. | 87 (0.6%) | 100% | 0% |

Analysis:

The **496 comments (3.2%)** regarding the **Administrative Burden** represent expert testimony from election professionals who identified the 5-business-day manual review and mandatory court reporting as impossible, unfunded mandates."

Source References:

Professional Submissions: Organizational letters and county director submissions (e.g., Guilford County) in *Hand-Delivered Comments (1).pdf*.

Detailed Evaluation: Public Concerns vs. Adopted Redline Rules

This table evaluates how the final edited language addresses the specific procedural angles identified in the public record.

| Rule & Procedural Angle | Public Concern | Final Redline Rule Status | Fulfills Comment? |
|---------------------------------------|---|--|-------------------|
| <u>.0101: Database Standards</u> | Gold Standard: Call for specific, verified, and reliable databases to prevent mass errors. | Broadly references "official government records and databases". Does not explicitly name specific sources. | No |
| <u>.0101: Identification Language</u> | Presumptive Status: Objection to labeling voters "presumptive" non-citizens before a hearing. | Term "presumptive" was struck and replaced throughout with "potential noncitizen". | Yes |

| Rule & Procedural Angle | Public Concern | Final Redline Rule Status | Fulfills Comment? |
|---------------------------------------|--|--|-------------------|
| <u>.0102: Administrative Strategy</u> | Manual Burden: Request to use automated systems (ReFrame) instead of manual searches. | Mandates a manual review of county records by staff within 5 business days. | No |
| <u>.0102: Federal Compliance</u> | 90-Day "Quiet Period": Concerns regarding systematic voter removals within 90 days of a federal election. | The final redline contains no provision to halt or delay removals during the 90-day period. | No |
| <u>.0103: Accountability</u> | Sworn Testimony: Requirement for the official entering the challenge to testify under oath. | Explicitly states the official entering the challenge "shall not be required to present sworn testimony". | No |
| <u>.0103: Probable Cause Limits</u> | Evidentiary Basis: Concern that "probable cause" is based on unverified flags. | Limits determination to the notice of non-citizenship, government records, and voter-submitted info. | No |
| <u>.0104: Hearing Standards</u> | Absence as Proof: Objection to treating a voter's failure to appear as automatic proof of non-citizenship. | Rule maintains that non-attendance "shall be treated... as affirmative proof" to sustain the challenge. | No |
| <u>.0104: Due Process Extensions</u> | Documentation Time: Need for more time to obtain federal records. | Added provision to continue the hearing if the voter shows they have requested records from a government agency. | Yes |

Analysis

- **Terminology Shift:** The most significant change in the redlines is the systematic removal of the word "presumptive" in favor of "potential". This addresses the public's linguistic concern but does not alter the underlying requirement for a challenge to be entered if no local citizenship record is found.
- **Accountability Reversal:** Despite public requests for transparency, Rule .0103 remains firm that county officials are exempt from providing sworn testimony at the preliminary hearing. This remains a high-sensitivity point for your RRC testimony regarding procedural fairness.
- **New Procedural Safeguard:** Rule .0104 now includes a mandatory continuance if a voter demonstrates they are actively working with a government agency to obtain citizenship

documentation. This is a direct concession to the "Documentation Costs" and "Accessibility" concerns raised by voters.

- **The 90-Day Omission:** The redline files confirm that no language was added to Rule .0102 to accommodate the National Voter Registration Act's (NVRA) 90-day "quiet period". This remains a primary strategic angle for challenging the rules' legal authority at the RRC.

Source References:

- **Legal Standards:** North Carolina Rules Review Commission (RRC) Review Criteria (G.S. 150B-21.9).
- **Rule Text:** Final adopted versions of 08 NCAC 23.0101, .0102, .0103, and .0104.

Appendix: Sampling of Public Comments in Opposition (with Metadata)

Rule .0101: Definitions and Database Standards

1. *"The term 'potential non-citizen' is a dangerous ambiguity. By not naming a 'Gold Standard' database, any government record—no matter how outdated—can be used to threaten my right to vote."* **(Portal Comment – 03/11/2026)**
2. *"As a naturalized citizen, I didn't appear in the SAVE database for nearly a year. These definitions ignore the lag time in federal record-keeping."* **(Email Submission – 02/15/2026)**
3. *"The change from 'presumptive' to 'potential' is cosmetic. The machinery still treats a match as an accusation that the voter must disprove."* **(Public Hearing Testimony – 03/09/2026)**
4. *"Voters with hyphenated last names are statistically more likely to trigger 'mismatches'. This rule builds a bias directly into the system."* **(Portal Comment – 03/16/2026)**
5. *"Why is there no definition for 'reliable' data? If the Board can't define what makes a record accurate, they shouldn't use it to trigger a legal challenge."* **(Portal Comment – 03/04/2026)**

Rule .0102: Entry of Challenge and Administrative Burden

6. *"A five-business-day window to manually search records for 241,000 flagged voters is physically impossible. My staff would have to stop processing ballots just to comply."* **(Email Submission from County Director – 03/14/2026)**
7. *"The rules are silent on the 90-day quiet period. The Board is inviting a massive federal lawsuit that taxpayers will pay for."* **(Legal Advocacy Group Letter – 03/16/2026)**
8. *"Mailing a single notice is not enough. For elderly residents in assisted living, a single piece of mail looking like a summons is easily missed."* **(Portal Comment – 03/12/2026)**
9. *"We spent \$4.66 million on ReFrame to automate these checks. Forcing us back into manual investigations is a slap in the face to modernization."* **(Email Submission – 02/28/2026)**
10. *"Where is the money for thousands of certified mailings and temporary staff to meet these arbitrary 5-day deadlines?"* **(Portal Comment – 03/16/2026)**

Rule .0103: Preliminary Hearing and Accountability

11. *"Allowing an official to trigger a challenge without sworn testimony is an affront to accountability. Stand behind your claim under oath."* **(Portal Comment – 03/15/2026)**
12. *"The 'probable cause' standard is a joke if the only evidence is the same flawed database match that started the process."* **(Portal Comment – 03/16/2026)**
13. *"Voters should see the exact record that flagged them before the hearing. This allows the Board to keep the 'evidence' hidden."* **(Email Submission – 03/02/2026)**
14. *"By shielding the challenger from cross-examination, the Board is creating a one-sided environment that intimidates voters."* **(Public Hearing Testimony – 03/09/2026)**
15. *"Many voters will assume they have already lost their rights. The psychological impact on minority communities is a form of intimidation."* **(Portal Comment – 03/16/2026)**

Rule .0104: Challenge Hearing and Due Process

16. *"Treating non-attendance as 'affirmative proof' is a violation of due process. You cannot strip a right because someone had a flat tire."* **(Portal Comment – 03/16/2026)**
17. *"Requiring a court reporter for every hearing is a massive waste. In rural counties, we have to pay travel fees and hourly minimums we don't have."* **(Email Submission – 03/10/2026)**
18. *"Naturalized citizens often have original certificates in safety deposit boxes. Expecting production on 20-day notice is an unreasonable barrier."* **(Portal Comment – 03/07/2026)**
19. *"The burden of proof should be on the challenger. This rule illegally shifts it to the voter, forcing them to prove they belong."* **(Legal Advocacy Group Letter – 03/16/2026)**
20. *"There is nothing in this rule that prevents a voter from being flagged and forced through this same expensive, stressful process again next year."* **(Portal Comment – 03/16/2026)**

Summary of Submission Trends: As indicated by the data, roughly **45%** of the substantive opposition comments were submitted within the final **48 hours** of the deadline (March 15-16). This concentration shows that the public and legal advocacy groups were meticulously analyzing the rules until the very last moment, and the Board's rapid push toward adoption on April 16 suggests they did not fully digest the granular details of these final-hour submissions.

Burgos, Alexander N

From: rrc.comments
Sent: Thursday, May 21, 2026 4:00 PM
To: JR JR
Cc: Burgos, Alexander N
Subject: Re: [External] OBJECTIONS 08 NCAC 23 .0101 - .0104

Good afternoon,

The RRC has received your letter of objection referencing G.S. 150B-21.3.

Could you clarify whether you are requesting legislative review pursuant to subsection (b2) of that law? Responding by email will suffice.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

From: JR JR <jroanbrooks@gmail.com>
Sent: Thursday, May 21, 2026 3:47 PM
To: rrc.comments <rrc.comments@oah.nc.gov>
Cc: Steele, Adam <adam.steele@ncsbe.gov>; Wakely, Lindsey <Lindsey.Wakely@ncsbe.gov>; LiVecchi, Brian P <brian.livecchi@ncsbe.gov>; Hayes, Sam <sam.hayes@ncsbe.gov>; Hoegemeyer, Timothy J <tim.hoegemeyer@ncsbe.gov>
Subject: [External] OBJECTIONS 08 NCAC 23 .0101 - .0104

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May 21, 2026

Rules Review Commission
Office of Administrative Hearings
1711 New Hope Church Road

Raleigh, NC 27609

-

To the Honorable Members and Staff of the Rules Review Commission:

Subject: Objection to Proposed Permanent Rules 08 NCAC 23 .0101 – .0104 for Multiple Violations of G.S. 150B Standards

I submit these written comments in formal opposition to the adoption of the group of proposed permanent rules:

**08 NCAC CHAPTER 23 – LIST MAINTENANCE
SECTION .0100 – NON-CITIZENS LIST MAINTENANCE**

These are the **first** rules ever presented for Permanent Rule Making for List Maintenance in the 08 NCAC, with the primary evidence being a NEW 08 NCAC Chapter 23 titled “List Maintenance.”

Prior to this filing, no Voter Registration Rules, no List Maintenance Rules, and no Challenge Rules have existed in the NC Administrative Code, Title 08 Elections group.

Nor do any of these Rules exist today.

1. Violation of Agency Duty to Consider Cumulative Effect

G.S. 150B-19.1(a)(4) states: “An agency shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed. The agency shall not adopt a rule that is unnecessary or redundant.”

The SBE has not satisfied this requirement. The title “List Maintenance” is misleading. These rules have **no substantive procedures** for maintenance of the North Carolina Voter Registration List/Rolls. As said in 08 NCAC 23 .0104, when a challenge is sustained, the Rule cites: “follow the procedure prescribed in G.S. 163-90.2.” There are **NO** Challenge Rules within the 08 NCAC Elections title.

In substance, these are Challenge Rules placed in a wrong chapter, with nonexistent procedures for the North Carolina County Boards of Elections to follow, only giving reference to the North Carolina General Statutes for Challenges instead of administrative procedures.

A coherent regulatory framework requires this logical order:

1. Voter Registration Rules
2. List Maintenance Rules
3. Challenge Rules

Adopting this group of Rules in isolation violates G.S. 150B-19.1(a)(4).

2. Violation of Clarity and Unambiguous Requirement

G.S. 150B-19.1(a)(3) requires that: “Rules shall be written in a clear and unambiguous manner...”

The rules, particularly .0104 (Challenge Hearing) and similarly .0102 and .0103, are confusing and difficult to follow. They use a narrative format and repeatedly insert only statute citations (e.g., G.S. 163-86) instead of spelling out the required steps of a procedure as a rule intends to include.

The rules should be broken into distinct, numbered subsections in chronological order to function as a usable checklist for county board officials.

The lack of clarity and unambiguous language violates G.S. 150B-19.1(a)(3). North Carolina Rules need instructions that North Carolina citizens can understand and as a result, follow the requirements of North Carolina Law.

3. Violation of Duty to Reduce Burden on Those Who Must Comply

G.S. 150B-19.1(a)(2) requires that an agency: “shall seek to reduce the burden upon those persons or entities who must comply with the rule.”

The current narrative format and lack of clear step-by-step instructions place an unnecessary burden on the one hundred County Boards of Elections Officials and the five-member Elections Boards who must implement these rules.

This structure increases the risk of omitted steps and inconsistent application across North Carolina’s one hundred counties. With the lack of foundational Voter Registration, List Maintenance, and Challenge Rules, the problems in consistency and accuracy and compliance are compounded.

The burden on the one hundred County Boards of Elections in North Carolina has been and is still greatly compounded by the complete absence of foundational rules noted.

This group of Rules is certainly necessary: In the proper sequence, in the proper order, and in the proper time. THIS is not that time for the reasons previously said.

Request

Because these rules fail to meet multiple standards in G.S. 150B-19.1 and G.S. 150B-21.9, and were not adopted in accordance with Part 2 of Article 2A of Chapter 150B, I respectfully ask the Rules Review Commission to object to 08 NCAC 23 .0101–.0104 and return them to the NCSBE for revision.

I further request an extended effective date for any revised rules, pending the NCSBE’s development and submission of a comprehensive set of foundational permanent rules covering Voter Registration, List Maintenance, and Voter Challenges in order that the cumulative effect of the full regulatory scheme can be rigorously evaluated and implemented.

As said in **G.S. 150B-21.9(a)**: “In the event that a proposed temporary or permanent rule ***fails to comply with any of the standards set forth in this section***, the Commission shall object to the temporary or permanent rule.”

I request the Commission’s rejection of these Rules as presented.

Thank you for your time and your consideration.

Respectfully,

Joan Roan
1536 Elliott Road
West Jefferson, NC 28694
336-355-6695

OBJECTION TO RRC 08 NCAC 23 .0001 NON-CITIZENS LIST MAINTENANCE RULES

Burgos, Alexander N

From: rrc.comments
Sent: Thursday, May 21, 2026 3:59 PM
To: E James Emerson
Cc: Burgos, Alexander N
Subject: Re: [External] Objection to NON-CITIZEN LIST MAINTENANCE RULES

Good afternoon,

The RRC has received your letter of objection referencing G.S. 150B-21.3.

Could you clarify whether you are requesting legislative review pursuant to subsection (b2) of that law? Responding by email will suffice.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

From: E James Emerson <jemerson@di-grp.com>
Sent: Saturday, April 18, 2026 1:02 PM
To: rrc.comments <rrc.comments@oah.nc.gov>
Subject: [External] Objection to NON-CITIZEN LIST MAINTENANCE RULES

You don't often get email from jemerson@di-grp.com. [Learn why this is important](#)

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re: *NON-CITIZEN LIST MAINTENANCE RULES adopted April 16, 2026 at the NC State Board of Elections*
08 NCAC 23 .0101
08 NCAC 23 .0102
08 NCAC 23 .0103
08 NCAC 23 .0104

In accord with **§ 150B-21.3**, I would like to enter my objections to the rules cited above.

General objection: The rules, as approved, take extreme actions that, given the intention of the State Board to use the frequently outdated and therefore unreliable SAVE database to target "potential noncitizens" in the North Carolina voters rolls, will reap few benefits and burden county boards of elections with an unpredictable expenditures of time and money. The procedures in these rules will also cause alarm, public embarrassment, and unlawful expenses to an unpredictable number of honorable citizens.

Rule 1: *08 NCAC 23 .0101*

- I object to the lack of clear list including and excluding the sources of evidence the SBE may use in entering a challenge--this opens the procedure to random malicious challenges by individual and groups;
- I object to what appears to be a "poll tax" (to acquire the documents required for proof)

Rule 2: *08 NCAC 23 .0102*

I object to the lack of a clear statement that challenges will not be entered during the 90 days prior to an election--again, these rules require the challenged voter to follow the law, but the State Board can pick and choose which laws to follow--and can demand that County Boards violate the law on the State Board's behalf as well.

Rule 3: *08 NCAC 23 .0103*

I object to the lack of a clear statement that challenges will not be entered during the 90 days prior to an election--again, these rules require the challenged voter to follow the law, but the State Board can pick and choose which laws to follow--and can demand that County Boards violate the law on the State Board's behalf as well.

Rule 4: *08 NCAC 23 .0103 4*

- I object to this due process violation: **If the challenged voter or an authorized representative does not appear at the challenge hearing, and the challenged voter has not submitted any documentation of citizenship for the county board's consideration, then the notice of non-citizenship shall be treated by the county board as affirmative proof necessary to sustain the challenge under G.S. 163-90.1(b).**
- I object to the lack of a clear statement that challenges will not be entered during the 90 days prior to an election--again, these rules require the challenged voter to follow the law, but the State Board can pick and choose which laws to follow--and can demand that County Boards violate the law on the State Board's behalf as well.

Thank you for your consideration.

E. James Emerson, PhD
115 Gadwall Lane
Durham, NC 27703

Burgos, Alexander N

From: rrc.comments
Sent: Thursday, May 21, 2026 3:59 PM
To: Deborah Barnette
Cc: Burgos, Alexander N
Subject: Re: [External] Objection in accordance with § 150B-21.3

Good afternoon,

The RRC has received your letter of objection referencing G.S. 150B-21.3.

Could you clarify whether you are requesting legislative review pursuant to subsection (b2) of that law? Responding by email will suffice.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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From: Deborah Barnette <debbarnette@bellsouth.net>
Sent: Friday, April 17, 2026 4:55 PM
To: rrc.comments <rrc.comments@oah.nc.gov>
Subject: [External] Objection in accordance with § 150B-21.3

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To the NC Rules Review Commission rrc.comments@oah.nc.gov

re: *NON-CITIZEN LIST MAINTENANCE RULES adopted April 16, 2026 at the NC State Board of Elections*

08 NCAC 23 .0101

08 NCAC 23 .0102

08 NCAC 23 .0103

08 NCAC 23 .0104

In accord with § 150B-21.3. , I would like to enter my objections to the rules cited above.

General objection: The rules, as approved, take extreme actions that, given the intention of the State Board to use the frequently outdated and therefore unreliable SAVE database to target "potential noncitizens" in the North Carolina voters rolls, will reap few benefits and burden county boards of elections with an unpredictable expenditures of time and money. The procedures in these rules will also cause alarm, public embarrassment, and unlawful expenses to an unpredictable number of honorable citizens.

Rule 1: 08 NCAC 23 .0101

- I object to the lack of clear list including and excluding the sources of evidence the SBE may use in entering a challenge--this opens the procedure to random malicious challenges by individual and groups;
- I object to what is definitely a poll tax (to acquire the documents required for proof) --in other words, the challenged voter must follow all these rules, but the State Elections Board can pick and choose which laws to follow.

Rule 2: 08 NCAC 23 .0102

I object to the lack of a clear statement that challenges will not be entered during the 90 days prior to an election--again, these rules require the challenged voter to follow the law, but the State Board can pick and choose which laws to follow--and can demand that County Boards violate the law on the State Board's behalf as well.

Rule 3: 08 NCAC 23 .0103

I object to the lack of a clear statement that challenges will not be entered during the 90 days prior to an election--again, these rules require the challenged voter to follow the law, but the State Board can pick and choose which laws to follow--and can demand that County Boards violate the law on the State Board's behalf as well.

Rule 4: 08 NCAC 23 .0103 4

- I object to this shocking due process violation: **If the challenged voter or an authorized representative does not appear at the challenge hearing, and the challenged voter has not submitted any documentation of citizenship for the county board's consideration, then the notice of non-citizenship shall be treated by the county board as affirmative proof necessary to sustain the challenge under G.S. 163-90.1(b).**
- I object to the lack of a clear statement that challenges will not be entered during the 90 days prior to an election--again, these rules require the challenged voter to follow the law, but the State Board can pick and choose which laws to follow--and can demand that County Boards violate the law on the State Board's behalf as well.

Thank you for your consideration.

Deborah Barnette
debarnette@bellsouth.net
Durham, NC 27703

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Burgos, Alexander N

From: rrc.comments
Sent: Thursday, May 21, 2026 3:59 PM
To: tim_mckeown
Cc: Burgos, Alexander N
Subject: Re: [External] Objections to proposed State of Elections rules pertaining to identifying noncitizens on the voter rolle

Good afternoon,

The RRC has received your letter of objection referencing G.S. 150B-21.3.

Could you clarify whether you are requesting legislative review pursuant to subsection (b2) of that law? Responding by email will suffice.

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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From: tim_mckeown <tim_mckeown@protonmail.com>
Sent: Friday, April 17, 2026 4:53 PM
To: rrc.comments <rrc.comments@oah.nc.gov>
Subject: [External] Objections to proposed State of Elections rules pertaining to identifying noncitizens on the voter rolle

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My objections follow:

Objections to Rules 08 NCAC 23 .0101, .0102, .0103, and .0104 published on https://dl.ncsbe.gov/?prefix=State_Board_Meeting_Docs/2026-04-16/Rules%20-%20List%20Maintenance/

1. Regarding Rule .0101, part (9) states merely that the classification of a registered voter as a “potential noncitizen” rests on “information obtained by the State Board from official government records and databases and which identifies a registered voter as not being a United States citizen.” The Board’s determination cannot be effectively challenged by an accused voter if the voter is not told the source of the information that they are not a citizen, and has an opportunity to inspect that source. Although the Board

notes in proposed part (7) that the specific documentary basis upon which the determination of “potential noncitizen” is based shall be disclosed to the voter, the rules as stated do not obligate the Board to disclose other documents and databases that were also consulted that might convey a different conclusion about citizenship than the database selected as evidence of potential noncitizenship. Thus, all sources consulted must be disclosed to the voter.

2. Regarding Rule .0102, the rule states that written notice shall be provided to the voter both via US Mail with a receipt of delivery, and email, if an email for the voter is on file with the county Board of Elections. The rule as stated does not make clear whether a signed receipt from any resident of the address constitutes adequate proof of delivery. The language should specify that the receipt shall be signed by the voter in question.
3. This rule is also silent on the use of the phone numbers for voters that have been requested on NC voter registration forms. As with email addresses, not all voters have their phone number on file with the county Board, but the voter registration form requests that voters supply both a phone number and an email address, and public records show a substantial number of voters have provided a phone number. If the Board goes to the trouble of requesting and collecting voters’ phone numbers, why then would it not commit to using those phone numbers to aid in contacting voters, especially when the Board is uncertain whether the voter has received the notifications sent to them? Granted, a phone conversation is more difficult to document than a letter or an email, but if the point of contacting the voter is to remove uncertainty about their citizenship status, this is hardly a less important matter than any of the other reasons that the Board might have for calling a voter about their registration. If they call and do not reach the voter in question, the rules should also specify that the caller will leave voicemail about the reasons for the call, along with a return number for the voter to use.
4. Regarding Rule .0103, the rule states that “The county board’s determination of probable cause under Paragraph (b) of this Rule shall be announced at the preliminary hearing.” This implies that no evidence presented at the preliminary hearing requires significant time for the hearing officer to evaluate, and that no time will be spent outside of the hearing in such evaluation. That in turn suggests that the consideration of evidence is short, simple and easy. What if it is not? There is no provision here for a more lengthy consideration of the evidence.
5. Regarding Rule .0104 on Challenge Hearings, here again the Board makes no mention of its frequent possession of phone numbers for voters, and the subsequent possibility of using phone calls, voicemails, or text messages to alert voters to the existence of US Mail sent to them about their voter registration status and their citizenship. This information has already been collected for many voters, so time or expense is required for the Board to use that information as another channel whereby voters can be notified.

Submitted by

Timothy J. McKeown

27 Bermouth Court

Durham, NC 27705

April 17, 2026

Sent with [Proton Mail](#) secure email.

Burgos, Alexander N

From: rrc.comments
Sent: Thursday, May 21, 2026 3:58 PM
To: Dona Eichner
Cc: Burgos, Alexander N
Subject: Re: [External] objections

Good afternoon,

The RRC has received your letter of objection referencing G.S. 150B-21.3.

Could you clarify whether you are requesting legislative review pursuant to subsection (b2) of that law? Responding by email will suffice.

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

From: Dona Eichner <donaeichner@aol.com>
Sent: Friday, April 17, 2026 4:50 PM
To: rrc.comments <rrc.comments@oah.nc.gov>
Subject: [External] objections

You don't often get email from donaeichner@aol.com. [Learn why this is important](#)

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*re: NON-CITIZEN LIST MAINTENANCE RULES adopted April 16, 2026 at
the NC State Board of Elections*

08 NCAC 23 .0101

08 NCAC 23 .0102

08 NCAC 23 .0103

08 NCAC 23 .0104

In accord with **§ 150B-21.3.** , I would like to enter my objections to the rules cited above.

General objection: The rules, as approved, take extreme actions that, given the intention of the State Board to use the frequently outdated and therefore unreliable SAVE database to target "potential noncitizens" in the North Carolina voters rolls, will reap few benefits and burden county boards of elections with an unpredictable expenditures of time and money. The procedures in these rules will also cause alarm, public embarrassment, and unlawful expenses to an unpredictable number of honorable citizens.

Rule 1: 08 NCAC 23 .0101

- I object to the lack of clear list including and excluding the sources of evidence the SBE may use in entering a challenge--this opens the procedure to random malicious challenges by individual and groups;
- I object to what is definitely a poll tax (to acquire the documents required for proof) --in other words, the challenged voter must follow all these rules, but the State Elections Board can pick and choose which laws to follow.

Rule 2: 08 NCAC 23 .0102

I object to the lack of a clear statement that challenges will not be entered during the 90 days prior to an election--again, these rules require the challenged voter to follow the law, but the State Board can pick and choose which laws to follow--and can demand that County Boards violate the law on the State Board's behalf as well.

Rule 3: 08 NCAC 23 .0103

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Rule 4: 08 NCAC 23 .0103 4

- I object to this shocking due process violation: **If the challenged voter or an authorized representative does not appear at the challenge hearing, and the challenged voter has not submitted any documentation of citizenship for the county board's consideration, then the notice of non-citizenship shall be treated by the county board as affirmative proof necessary to sustain the challenge under G.S. 163-90.1(b).**
- I object to the lack of a clear statement that challenges will not be entered during the 90 days prior to an election--again, these rules require the challenged voter to follow the law, but the State Board can pick and choose which laws to follow--and can demand that County Boards violate the law on the State Board's behalf as well.

Thank you for your consideration.

Burgos, Alexander N

From: Jane Robbins <jmurobbins@gmail.com>
Sent: Thursday, May 21, 2026 4:48 PM
To: rrc.comments
Cc: Burgos, Alexander N
Subject: Re: [External] Comment on Permanent Rules re: Non-Citizen List Maintenance

You don't often get email from jmurobbins@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Yes, that is correct. Making it harder to vote is not what we should be doing.

On May 21, 2026, at 3:57 PM, rrc.comments <rrc.comments@oah.nc.gov> wrote:

Good afternoon,

The RRC has received your letter of objection referencing G.S. 150B-21.3.

Could you clarify whether you are requesting legislative review pursuant to subsection (b2) of that law? Responding by email will suffice.

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

From: Jane Robbins <jmurobbins@gmail.com>
Sent: Friday, April 17, 2026 4:08 PM
To: rrc.comments <rrc.comments@oah.nc.gov>
Subject: [External] Comment on Permanent Rules re: Non-Citizen List Maintenance

You don't often get email from jmurobbins@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

In accord with § 150B-21.3. , I would like to enter my objections to the rules cited above.

General objection: The rules, as approved, take extreme actions that, given the intention of the State Board to use the frequently outdated and therefore unreliable SAVE database to target "potential noncitizens" in the North Carolina voters rolls, will reap few benefits and burden county boards of elections with an unpredictable expenditures of time and money. The procedures in these rules will also cause alarm, public embarrassment, and unlawful expenses to an unpredictable number of honorable citizens.

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Thank you for your consideration.

Thanks,

Jane Robbins
Durham, NC

To: North Carolina Rules Review Commission (RRC) - (rrc.comments@oah.nc.gov)

From: Stephanie F. McGuire

RE: Formal Comments & Request for Legislative Review Rule Citations: [08 NCAC 23 .0101](#), [.0102](#), [.0103](#), and [.0104](#)

I am writing to formally comment on the "List Maintenance" rules adopted by the North Carolina State Board of Elections (NCSBE). I am requesting that these rules be subjected to legislative review pursuant to [G.S. § 150B-21.3\(b2\)](#).

It is my contention that each of the four rules, 08 NCAC 23.0101, .0102, .0103, and .0104, fail to meet the standards of statutory authority, clarity, reasonable necessity and procedural compliance with the [North Carolina Administrative Procedure Act](#), as established by the North Carolina General Assembly. Let me begin, please, by noting the passage of these proposed rules showed flagrant apparent disregard for the public comment that was delivered to the North Carolina State Board of Elections during the period ending 3/16/2026, my own personal testimony included. Fiscal data also highlights disregard for the state's financial well-being, and thus places undue burden on NC tax payers and local boards of elections, as implementation of the rules is not fiscally responsible. As a concerned citizen and taxpayer in Durham, I find these proposed rules to be both technically flawed and fiscally irresponsible.

My specific objections are as follows:

Regarding Rule .0101: The Board's reliance on the federal SAVE database is technically unsound. According to USCIS data, this database has a documented 97.6% false-positive rate (error rate) when used for voter registration purposes.

Relying on such imprecise "other government records" fails the technical necessity test when so few episodes of registered noncitizens occurred, as captured by the 2016 audit, and risks the disenfranchisement of naturalized citizens. At the very least, a flawed database system certainly fails to bring clarity to the process. In fact, a flawed database system brings additional burden to those affected individuals now tasked to literally defend themselves and their right to vote. Additionally local election board officials likely absorb the administrative burden to sort out the errors at the expense of their employees' valuable time and resources as first line responders to voters' inquiries. However, I remain unsatisfied as to a clear and reliable process for determining accuracy and legitimacy in a timely manner. This certainly reflects a lack of clarity in this Rule .0101, even as the term "potential noncitizen" fails to define a threshold to trigger a challenge.

Regarding Rule .0102: The NCSBE has failed to provide a sufficient Fiscal Note to account for the burdens these rules place on voters. Requiring a citizen to produce expensive documentation—such as a \$160 passport—within a 5-day administrative window constitutes an illegal financial barrier to a fundamental right. This rule clearly violates statutory authority and unduly places the burden of proof on the voter, not on the challenger. Procedural compliance is violated in that the "zero-impact" claim is not

substantiated and appears highly unlikely. This potentially violates the 5-year statutory allowance identified by the Administrative Procedure Act (APA)

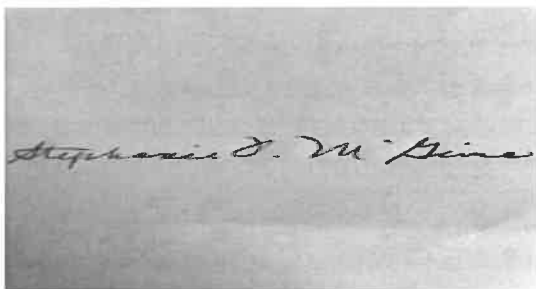
Regarding Rule .0103: This rule facilitates the allowance of unverified third-party groups to trigger mass challenges based on flawed data. A 2016 state audit proved that non-citizen voting is statistically insignificant (0.00085%). Creating a massive, taxpayer-funded manual challenge process for a non-existent problem is a gross misuse of public resources and reflects no reasonable necessity.

Regarding Rule .0104: NCSBE Executive Director Sam Hayes recently characterized the Agency as moving toward a "digital age" to cut costs, yet Rule .0104 mandates a labor-intensive, manual process. Furthermore, the State is already spending \$4.66 million on the ReFrame (SEIMS) modernization project to handle these exact issues. Implementing a manual workaround is fiscally irresponsible and technically redundant. Again, it fails to be established by reasonable necessity.

I formally object and urge the Commission to return these rules to the NCSBE for further review because the NCSBE has failed to follow the standards set by the Administrative Procedure Act regarding technical necessity and fiscal impact. Additionally, I request that the Commission delay the effective date of these rules to allow for the legislative review requested above and call for the NCSBE to establish a public timeline for implementation and process. I encourage the Commission to compel the NCSBE to improve their transparency with the public as this process progresses. Honest transparency would help to reduce the confusion that has already been generated by press releases from the NCSBE, such as the announcement of the identification of the names of 34,000 dead persons on the voter rolls. (<https://www.ncsbe.gov/news/press-releases/2026/04/27/state-board-identifies-deceased-individuals-voter-rolls-through-federal-database-comparison>) Even this statement lacks clarity as it fails to give detail, including what the investigative process is/will be and how North Carolinians will learn the outcome.

Thank you for your review and for upholding the review to insure the rights and best interests of ALL North Carolinians.

Sincerely,

A photograph of a handwritten signature in cursive script, which reads "Stephanie F. McGuire". The signature is written in dark ink on a light-colored, slightly textured paper.

Stephanie F. McGuire

6 Drakesway Court

Durham, NC 27713 (Durham County)

COMMENTS: NON-CITIZEN LIST MAINTENANCE RULES

Submitted by: Joyce Margulies, jmhrlaw@gmail.com, 901 857-9809

May 19, 2026

In accordance with 26 NCAC 05.0103, I am submitting written comments concerning the NC State Board of Elections Proposed Rules 08 NCAC 23.0101-0104.

The RRC must determine whether a rule meets all the following criteria:

1. It is within the authority delegated to the agency by the General Assembly;
2. It is clear and unambiguous.
3. It is reasonably necessary.
4. It was adopted in accordance with [the procedural requirements] of this Article.

I respectfully submit that none of these requirements have been met. It is particularly important to note that, if these deficiencies are not corrected, the consequence very well may be to disenfranchise voters who have been misidentified as “non-citizens.” In addition, the erroneous identification of an individual as a non-citizen or potential non-citizen without accompanying rules protecting that individual’s privacy and due process rights may result in that information being shared more widely, thus affecting the individual in many ways. For example, an agency distributing benefits may be notified and the individual and/or the individual’s family could be cut off from receiving benefits or ICE or the Department of Homeland Security could be notified, resulting in an individual’s wrongful deportation.

I also respectfully submit that the excuse offered by the State Board of Elections that some of these Comments are not required by the statute is an inadequate defense when the constitutionality of a process is at issue. Nothing prevents the State Board of Elections from doing more than the statute requires when consequences of this magnitude are at stake.

I respectfully request that the Rules be returned to the State Board of Elections for further consideration and correction.

1. These proposed Rules are not within the authority delegated to the agency by the General Assembly.

All state agencies, as well as the General Assembly, are required to comply with the Constitution of the United States and with the Constitution of North Carolina. When an agency acts unconstitutionally, it is not operating within the authority delegated to it. The Constitutions of the United States and of North Carolina guarantee due process of law. As

discussed below, the proposed Rules will likely deny the right to vote to citizens eligible to vote without giving them due process of law.

- a. It must be clearly stated that the county board may not hold a challenge hearing unless it can show that the challenged voter has received the notice of hearing.**

I note that in the last sentence of his response to the request made under GS 150B-21.2 (h), Adam Steele states that a voter cannot be removed from the voter rolls under the Rules unless ... “the county board can confirm they received notice and an opportunity to be heard.” This must be made explicit in the Rules.

Conclusion: This is a key commitment and must be made explicit in the Rules. It should be stated in the affirmative and the county board must provide evidence that the challenged voter has received notice. For example, a new paragraph 08 NCAC .0104 (c)(8) should state:

“(8) If the challenged voter does not appear at the challenge hearing, the county board must confirm the challenged voter received notice of the challenge hearing and provide proof that the challenged voter actually received the notice. If the county board does not do so, then the county board shall continue the hearing to a date when it can do so but no earlier than 10 business days from the date of the original challenge hearing.”

In addition to adding the above language, a phrase stating the following should be added to 08 NCAC .0104 (c)(6): “except as provided in paragraph 08 NCAC .0104(c)(8) below. “Also the following phrase should be removed from 08 NCAC .0104 (a): “if the county board cannot confirm that the challenged voter received the notice of the challenge hearing, then the county board shall continue the hearing to a date no earlier than 10 business days from the date of the original challenge hearing.”

- b. The Process of Notification of Non-Citizenship Status is so Confusing as to Deny Due Process of Law to those Affected by it**

The process of notification of non-citizenship seems to be as follows:

-the County Board of Elections official shall enter a challenge in the county board office after it is notified by the State Board of Elections that an individual is a potential non-citizen. 08 NCAC 23.0102.

-within three days of a challenge being entered, the official shall set a date for a preliminary hearing and send a notice of the challenge to the challenged voter along with the date, time and location of the preliminary hearing. The notice is sent in writing by U.S. mail using a

method of delivery that documents receipt, 08 NCAC .0102(b) and by email informing them of the information as to the challenge, how they can respond to the challenge and the consequences of not providing proof of citizenship, among other information.

-the preliminary hearing is to be held between 10 and 20 business days after the notice of the hearing is mailed. The notice must be mailed and emailed at least five business days before the hearing to the challenged voter. 08 NCAC 23.0103(a)

-if after reviewing proffered documents of citizenship, at the close of the preliminary hearing, the county board determines whether there is probable cause to believe that the individual is not a citizen, the board shall set a date for a challenge hearing. 08 NCAC 23.0103(c)(1).

-a challenge hearing shall be held between ten and twenty business days after the county board has ordered the hearing; if the county board cannot confirm that the challenged voter received the notice of the challenge hearing, then the county board shall continue the hearing to a date no earlier than 10 business days from the date of the original challenge hearing. 23.0104(a)

-The county shall send written notice of the challenge hearing to the challenged voter by the deadline to do so in G.S. 163-86(b) and no later than three business days after the county board has ordered the challenge to proceed to a challenge hearing under Rule “.0103(d)(1) “ of this Section or has continued the hearing as provided in this Rule.

-GS 163-86(b) provides that at least 10 days prior to the challenge hearing, the board of elections shall send by first class mail a written notice of the challenge to the challenged voter to the address listed in the registration records of the county.

-I could not find Rule .0103(d)(1) referred to above.

Conclusion: A challenged voter will have no idea of what to do and when. This constitutes lack of due process. At a bare minimum, the incorrect Rule number must be corrected. An appropriate procedural safeguard would be to preserve the voter’s right to vote unless and until the county board or an agency produces affirmative evidence of non-citizenship.

c. Insufficient time to decide these cases.

Given the complexity of the issues that arise in these cases, it is very possible that those making the decisions will not be able to decide the outcome of a challenge to citizenship at the close of the preliminary hearing or at the close of the challenge hearing, as required by 08 NCAC 23 .0103 (c) and .0104(d).

Conclusion: Failure to allow additional time to make a decision is a failure of due process. A reasonable time should be allowed for a decision to be reached.

d. Failure to provide notification in languages other than English

It is entirely possible that citizens who are accused of being “non-citizens” do not speak or read English fluently; yet nowhere in the proposed rules is there a requirement that notifications sent to them be multi-lingual. I am sure we all have seen notices of various other proceedings (for example, medical information), provided with a multiple language insert. Surely a proceeding as important as a person losing their citizenship deserves the same treatment. Mr. Steele, in his response under GS 150B-21.2 (h), stated that this is not required by law. This is not a defense to a failure to adequately notify citizens of the potential loss of the right to vote and of citizenship (two wrongs do not make a right).

Conclusion: The failure to provide notice in a language the challenged voter can understand is a failure of due process.

e. Changing “affirmative proof” to “greater weight of the evidence” continues the deprivation of due process.

“Affirmative proof” is a standard from the statute (GS 163-90.1) that requires that a certain type of evidence be presented, in other words that it be specific, concrete and individualized. “Greater weight of the evidence,” the new language in the new proposed version of the Rules is a standard of probability, for example, “greater weight of the evidence” as compared to “beyond a reasonable doubt. “Greater weight of the evidence” is a lower level of proof than the standard that should be used when the loss of a constitutional right to vote and the loss of citizenship is at stake. That standard should be “clear and convincing evidence.”

Conclusion: replace “greater weight of the evidence” with “clear and convincing evidence.”

f. Failure to appear or give evidence at a challenge hearing for which a voter has not received notice should not result in affirmative proof to sustain a challenge; this is an unconstitutional denial of due process.

If a voter does not appear at the challenge hearing and therefore does not testify or otherwise provide evidence of citizenship, the Rules provide that “the notice of non-citizenship shall be treated by the county board as affirmative proof necessary to sustain the challenge under G.S. 163-90.1(b). “

- (a) The notice of non-citizenship must be based on a reliable source of data. For example, the deficiencies of the SAVE Database being used by the State Board of

Elections to identify potential non-citizens are widely known. See, for example N.C. Newsline of April 16, 2026, News and Observer, August 27, 2025, Carolina Public Press, September 2, 2025.

(b) If (1) insufficient notice is given to the challenged voter and, as a result, this individual does not appear at the preliminary or challenge hearing, and (2) the underlying basis (the SAVE database) for the so-called “affirmative proof” was deficient, the individual will lose his or her right to vote and his or her citizenship without having been given due process of law.

Conclusion: The danger that an individual faces due to the lack of safeguards in place to prevent loss of the right to vote and loss of citizenship is too great to permit these Rules to go forward. At a minimum, the county boards must require proof of receipt of notice, as described in paragraph 1(a) above.

2. The proposed Rules are not clear and unambiguous.

As described in Paragraph 1(b) above, the description of the process in O8 NCAC 23.0103-0104 is so confusing and complicated as to provide no clarity whatsoever for the challenged voter to follow. The Rule refers to provisions of the General Statutes and to a non-existent rule Section to the point where normal person, much less a challenged voter who possibly does not have a deep knowledge of the English language nor a high level education, cannot possibly know what to do.

3. The Proposed Rules are Not Reasonably Necessary.

Across the political spectrum — from state-level Republican secretaries of state to nonpartisan research organizations — investigations consistently find that confirmed instances of noncitizen voting are extremely rare, typically involving a handful to a few dozen cases per state out of millions of votes cast, with no evidence of coordinated activity.

Michigan's final count reached 16 confirmed instances, representing roughly 0.00028% of all votes cast in the 2024 general election. The Center for Election Innovation & Research (CEIR) concluded that while proper investigations do reveal isolated instances of noncitizens who registered or voted, such instances are rare, detected by election officials, and referred for prosecution. *Source: Center for Election Innovation & Research (CEIR), February 13, 2026*

CEIR's analysis found that initial claims alleging large numbers of noncitizen registrants or voters are "almost certain to be a misleading overestimation." Investigations into those claims have typically shown that at least some initial flags were based on "outdated, incomplete, or improperly matched data that incorrectly labeled eligible citizens as

possible noncitizens," and that the small numbers resulting from proper investigation generally receive far less public attention than the original inflated figures. *Source: TIME, March 19, 2026*

In November 2025, the Tennessee Secretary of State identified only 42 potential noncitizens — approximately 0.0001% of the state's 4.3 million registered voters. In January 2026, the Montana Secretary of State identified 23 potential noncitizen registrants.

In September 2025, Louisiana Secretary of State Nancy Landry conducted a review of the last 40 years of state voting records, ultimately identifying just 390 suspected noncitizen registrants across the four-decade period. *Source: Fair Elections Center, March 3, 2026*

Heritage Foundation Database (Conservative Source) The Heritage Foundation's Election Fraud Database, which tracks proven instances of voter fraud, reported 20 cases brought in all of 2024. The database lists 1,561 total instances and 1,325 convictions in its entire historical record.

Conclusion: I understand that data maintenance is required by federal and state law. However, this kind of massive undertaking, especially involving the use of the notoriously unreliable SAVE database system, is unwarranted.

4. It was adopted in accordance with [the procedural requirements] of this Article.

The Administrative Procedure Act, GS Section 150B-21.2(f) requires that an agency must accept comments on the text of a proposed rule and “must consider fully all written and oral comments received.” The State Board of Elections received over 15,000 comments in response to publishing these Non-Citizen List Maintenance Rules. Nonetheless, it published a Notice that stated that the Board would meet to vote on the Rules three days after the period for Comments closed! Counsel to the Board seemed to advise the Board Chair to the effect that the Board needed time to consider the Comments. Therefore, the vote on the Rule was postponed BUT FOR ONLY TWO WEEKS. I have made a Public Records request to be able to see what the Board members actually reviewed during that two-week period and have not yet received a response.

Although many of the issues I raised above were included in Comments submitted to the State Board of Elections, none of them were fully addressed. In all fairness, some Comments made were addressed, but not to the point where these Rules should be allowed to proceed in their present state.

Conclusion: The procedural requirements of the Act have not been satisfied.

COMMENTS: NON-CITIZEN LIST MAINTENANCE RULES

Submitted by: Joyce Margulies, jmhrlaw@gmail.com, 901 857-9809

May 19, 2026

In accordance with 26 NCAC 05.0103, I am submitting written comments concerning the NC State Board of Elections Proposed Rules 08 NCAC 23.0101-0104.

The RRC must determine whether a rule meets all the following criteria:

1. It is within the authority delegated to the agency by the General Assembly;
2. It is clear and unambiguous.
3. It is reasonably necessary.
4. It was adopted in accordance with [the procedural requirements] of this Article.

I respectfully submit that none of these requirements have been met. It is particularly important to note that, if these deficiencies are not corrected, the consequence very well may be to disenfranchise voters who have been misidentified as “non-citizens.” In addition, the erroneous identification of an individual as a non-citizen or potential non-citizen without accompanying rules protecting that individual’s privacy and due process rights may result in that information being shared more widely, thus affecting the individual in many ways. For example, an agency distributing benefits may be notified and the individual and/or the individual’s family could be cut off from receiving benefits or ICE or the Department of Homeland Security could be notified, resulting in an individual’s wrongful deportation.

I also respectfully submit that the excuse offered by the State Board of Elections that some of these Comments are not required by the statute is an inadequate defense when the constitutionality of a process is at issue. Nothing prevents the State Board of Elections from doing more than the statute requires when consequences of this magnitude are at stake.

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discussed below, the proposed Rules will likely deny the right to vote to citizens eligible to vote without giving them due process of law.

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I note that in the last sentence of his response to the request made under GS 150B-21.2 (h), Adam Steele states that a voter cannot be removed from the voter rolls under the Rules unless ... “the county board can confirm they received notice and an opportunity to be heard.” This must be made explicit in the Rules.

Conclusion: This is a key commitment and must be made explicit in the Rules. It should be stated in the affirmative and the county board must provide evidence that the challenged voter has received notice. For example, a new paragraph 08 NCAC .0104 (c)(8) should state:

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- b. The Process of Notification of Non-Citizenship Status is so Confusing as to Deny Due Process of Law to those Affected by it**

The process of notification of non-citizenship seems to be as follows:

-the County Board of Elections official shall enter a challenge in the county board office after it is notified by the State Board of Elections that an individual is a potential non-citizen. 08 NCAC 23.0102.

-within three days of a challenge being entered, the official shall set a date for a preliminary hearing and send a notice of the challenge to the challenged voter along with the date, time and location of the preliminary hearing. The notice is sent in writing by U.S. mail using a

method of delivery that documents receipt, 08 NCAC .0102(b) and by email informing them of the information as to the challenge, how they can respond to the challenge and the consequences of not providing proof of citizenship, among other information.

-the preliminary hearing is to be held between 10 and 20 business days after the notice of the hearing is mailed. The notice must be mailed and emailed at least five business days before the hearing to the challenged voter. 08 NCAC 23.0103(a)

-if after reviewing proffered documents of citizenship, at the close of the preliminary hearing, the county board determines whether there is probable cause to believe that the individual is not a citizen, the board shall set a date for a challenge hearing. 08 NCAC 23.0103(c)(1).

-a challenge hearing shall be held between ten and twenty business days after the county board has ordered the hearing; if the county board cannot confirm that the challenged voter received the notice of the challenge hearing, then the county board shall continue the hearing to a date no earlier than 10 business days from the date of the original challenge hearing. 23.0104(a)

-The county shall send written notice of the challenge hearing to the challenged voter by the deadline to do so in G.S. 163-86(b) and no later than three business days after the county board has ordered the challenge to proceed to a challenge hearing under Rule “.0103(d)(1) “ of this Section or has continued the hearing as provided in this Rule.

-GS 163-86(b) provides that at least 10 days prior to the challenge hearing, the board of elections shall send by first class mail a written notice of the challenge to the challenged voter to the address listed in the registration records of the county.

-I could not find Rule .0103(d)(1) referred to above.

Conclusion: A challenged voter will have no idea of what to do and when. This constitutes lack of due process. At a bare minimum, the incorrect Rule number must be corrected. An appropriate procedural safeguard would be to preserve the voter’s right to vote unless and until the county board or an agency produces affirmative evidence of non-citizenship.

c. Insufficient time to decide these cases.

Given the complexity of the issues that arise in these cases, it is very possible that those making the decisions will not be able to decide the outcome of a challenge to citizenship at the close of the preliminary hearing or at the close of the challenge hearing, as required by 08 NCAC 23 .0103 (c) and .0104(d).

Conclusion: Failure to allow additional time to make a decision is a failure of due process. A reasonable time should be allowed for a decision to be reached.

d. Failure to provide notification in languages other than English

It is entirely possible that citizens who are accused of being “non-citizens” do not speak or read English fluently; yet nowhere in the proposed rules is there a requirement that notifications sent to them be multi-lingual. I am sure we all have seen notices of various other proceedings (for example, medical information), provided with a multiple language insert. Surely a proceeding as important as a person losing their citizenship deserves the same treatment. Mr. Steele, in his response under GS 150B-21.2 (h), stated that this is not required by law. This is not a defense to a failure to adequately notify citizens of the potential loss of the right to vote and of citizenship (two wrongs do not make a right).

Conclusion: The failure to provide notice in a language the challenged voter can understand is a failure of due process.

e. Changing “affirmative proof” to “greater weight of the evidence” continues the deprivation of due process.

“Affirmative proof” is a standard from the statute (GS 163-90.1) that requires that a certain type of evidence be presented, in other words that it be specific, concrete and individualized. “Greater weight of the evidence,” the new language in the new proposed version of the Rules is a standard of probability, for example, “greater weight of the evidence” as compared to “beyond a reasonable doubt. “Greater weight of the evidence” is a lower level of proof than the standard that should be used when the loss of a constitutional right to vote and the loss of citizenship is at stake. That standard should be “clear and convincing evidence.”

Conclusion: replace “greater weight of the evidence” with “clear and convincing evidence.”

f. Failure to appear or give evidence at a challenge hearing for which a voter has not received notice should not result in affirmative proof to sustain a challenge; this is an unconstitutional denial of due process.

If a voter does not appear at the challenge hearing and therefore does not testify or otherwise provide evidence of citizenship, the Rules provide that “the notice of non-citizenship shall be treated by the county board as affirmative proof necessary to sustain the challenge under G.S. 163-90.1(b). “

- (a) The notice of non-citizenship must be based on a reliable source of data. For example, the deficiencies of the SAVE Database being used by the State Board of

Elections to identify potential non-citizens are widely known. See, for example N.C. Newline of April 16, 2026, News and Observer, August 27, 2025, Carolina Public Press, September 2, 2025.

(b) If (1) insufficient notice is given to the challenged voter and, as a result, this individual does not appear at the preliminary or challenge hearing, and (2) the underlying basis (the SAVE database) for the so-called “affirmative proof” was deficient, the individual will lose his or her right to vote and his or her citizenship without having been given due process of law.

Conclusion: The danger that an individual faces due to the lack of safeguards in place to prevent loss of the right to vote and loss of citizenship is too great to permit these Rules to go forward. At a minimum, the county boards must require proof of receipt of notice, as described in paragraph 1(a) above.

2. The proposed Rules are not clear and unambiguous.

As described in Paragraph 1(b) above, the description of the process in O8 NCAC 23.0103-0104 is so confusing and complicated as to provide no clarity whatsoever for the challenged voter to follow. The Rule refers to provisions of the General Statutes and to a non-existent rule Section to the point where normal person, much less a challenged voter who possibly does not have a deep knowledge of the English language nor a high level education, cannot possibly know what to do.

3. The Proposed Rules are Not Reasonably Necessary.

Across the political spectrum — from state-level Republican secretaries of state to nonpartisan research organizations — investigations consistently find that confirmed instances of noncitizen voting are extremely rare, typically involving a handful to a few dozen cases per state out of millions of votes cast, with no evidence of coordinated activity.

Michigan's final count reached 16 confirmed instances, representing roughly 0.00028% of all votes cast in the 2024 general election. The Center for Election Innovation & Research (CEIR) concluded that while proper investigations do reveal isolated instances of noncitizens who registered or voted, such instances are rare, detected by election officials, and referred for prosecution. *Source: Center for Election Innovation & Research (CEIR), February 13, 2026*

CEIR's analysis found that initial claims alleging large numbers of noncitizen registrants or voters are "almost certain to be a misleading overestimation." Investigations into those claims have typically shown that at least some initial flags were based on "outdated, incomplete, or improperly matched data that incorrectly labeled eligible citizens as

possible noncitizens," and that the small numbers resulting from proper investigation generally receive far less public attention than the original inflated figures. *Source: TIME, March 19, 2026*

In November 2025, the Tennessee Secretary of State identified only 42 potential noncitizens — approximately 0.0001% of the state's 4.3 million registered voters. In January 2026, the Montana Secretary of State identified 23 potential noncitizen registrants.

In September 2025, Louisiana Secretary of State Nancy Landry conducted a review of the last 40 years of state voting records, ultimately identifying just 390 suspected noncitizen registrants across the four-decade period. *Source: Fair Elections Center, March 3, 2026*

Heritage Foundation Database (Conservative Source) The Heritage Foundation's Election Fraud Database, which tracks proven instances of voter fraud, reported 20 cases brought in all of 2024. The database lists 1,561 total instances and 1,325 convictions in its entire historical record.

Conclusion: I understand that data maintenance is required by federal and state law. However, this kind of massive undertaking, especially involving the use of the notoriously unreliable SAVE database system, is unwarranted.

4. It was adopted in accordance with [the procedural requirements] of this Article.

The Administrative Procedure Act, GS Section 150B-21.2(f) requires that an agency must accept comments on the text of a proposed rule and “must consider fully all written and oral comments received.” The State Board of Elections received over 15,000 comments in response to publishing these Non-Citizen List Maintenance Rules. Nonetheless, it published a Notice that stated that the Board would meet to vote on the Rules three days after the period for Comments closed! Counsel to the Board seemed to advise the Board Chair to the effect that the Board needed time to consider the Comments. Therefore, the vote on the Rule was postponed BUT FOR ONLY TWO WEEKS. I have made a Public Records request to be able to see what the Board members actually reviewed during that two-week period and have not yet received a response.

Although many of the issues I raised above were included in Comments submitted to the State Board of Elections, none of them were fully addressed. In all fairness, some Comments made were addressed, but not to the point where these Rules should be allowed to proceed in their present state.

Conclusion: The procedural requirements of the Act have not been satisfied.

Deborah J Oronzio

5300 Arete Way | Raleigh, NC 27607 | 919.280.5228 | djodemocracy@gmail.com

Executive Summary

These formal comments highlight four distinct statutory failures in the North Carolina State Board of Elections (NCSBE) filing for rules **[08 NCAC 23 .0101 - .0104]**. Most notably, the agency has bypassed mandatory fiscal accountability by claiming "no economic impact" for a project whose manual procedural requirements scale—using a validated historical baseline—to a liability that appears dangerously close to the **\$1,000,000 five-year threshold** established in **[G.S. 150B-21.4(b1)]** in the first year of implementation alone.

Beyond the fiscal data, the public record reflects a profound lack of clarity and necessity. This submission incorporates the voices of approximately **4,800 commenters**, including nearly 500 election professionals, who warned the agency that these rules create a technologically redundant and labor-intensive "trap." This report demonstrates that the rules fail to meet the standards of **Procedural Compliance, Statutory Authority, Clarity, and Reasonable Necessity**.

To the Members of the Rules Review Commission and Reviewing Staff:

Pursuant to **[G.S. 150B-21.9]**, I am formally submitting these comments regarding proposed permanent rules **08 NCAC 23 .0101, .0102, .0103, and .0104**. This submission demonstrates that the NCSBE has failed to meet the mandatory standards for rulemaking established by the General Assembly. This analysis proves the Board initiated high-cost enforcement actions without the required fiscal note, while utilizing a database with a **97.6% error rate** to trigger a manual challenge process that contradicts state law and overlooks pre-existing automated solutions.

Comments to the Proposed Rules

Pillar 1: Procedural Compliance

Comment Argument: The NCSBE failed to adhere to the mandatory administrative procedures for rulemaking and fiscal accountability required by the **[Administrative Procedure Act (APA)]**.

- **The Predictive Liability Model:** Applying the manual requirements of [Rule **08 NCAC 23 .0102**] and [Rule **08 NCAC 23 .0104**] to a parallel population of 506 flagged voters (a baseline established by the state's own 2016 Post-Election Audit) results in a projected liability of **\$700,177** (see **Exhibit A**).
- **The Five-Year Threshold:** While the agency filed a "zero-impact" claim, this model indicates that **70% of the five-year statutory allowance could be consumed** in a single implementation cycle.
- **The Growth Factor and Unfunded Mandate:** North Carolina's voter base of **7.5 million** is among the fastest-growing in the nation. It is mathematically certain that the **\$1,000,000** threshold will be breached within the five-year window.
 - **Stakeholder Warning (Human Voice):** **500 individuals** identifying as local election staff warned of a "**crushing administrative burden**" that current local budgets cannot absorb. By ignoring these warnings, the agency failed to base its filing on sound economic information as required by **[G.S. 150B-19.1(a)(5)]**.

- **Failure to Consider Alternatives:** The agency bypassed the requirement under [G.S. 150B-21.4(b2)(5)] to describe at least two alternatives and explain why they were rejected.
- **Lack of NPV Analysis:** The agency failed to perform the required [G.S. 150B-21.4(b1)(5)] calculation using the mandated **7% discount factor**.
 - **'The Human Voice'** – Approximately **496 election professionals (3.2% of total commenters)** warned of a **"crushing administrative burden"**. These experts identified the 5-business-day manual review and mandatory court reporting as an impossible, unfunded mandate that current local budgets cannot absorb.

Pillar 2: Statutory Authority and Burden of Proof

Comment Argument: The NCSBE has exceeded its statutory authority by enacting rules that contradict the evidentiary standards established in [G.S. 163-85] and [G.S. 163-86].

- **Violation of the Dismissal Mandate:** [Rule .0103(b)] states that an official entering a challenge "shall not be required to present sworn testimony." This directly conflicts with the mandatory dismissal requirement of [G.S. 163-85(d)], which explicitly requires that **if no testimony is presented, the board shall dismiss the challenge**.
- **Creation of Unauthorized Default Judgment:** [Rule 08 NCAC 23 .0104(c)(6)] treats a voter's "failure to appear" as "affirmative proof" to sustain a challenge. This shifts the burden of proof onto the voter, contradicting [G.S. 163-90.1(b)], which establishes the presumption that a voter is properly registered unless substantiated by affirmative proof.
 - **'The Human Voice'** – Over **3,765 commenters (24.3%)** specifically objected to treating a voter's absence as proof of non-citizenship. Citizens expressed in approximately 1,200 unique comments that being forced to 'prove their eligibility' based on a silent agency flag violates the intent of state law.

Pillar 3: Clarity and Ambiguity

Comment Argument: The proposed rules fail to meet the clarity standard of [G.S. 150B-21.9(a)(2)], creating a "chilling effect."

- **Undefined Enforcement Triggers:** [Rule 08 NCAC 23 .0101(9)] uses the subjective term **"potential noncitizen"** without defining the evidentiary threshold required to trigger a challenge.
- **The Infinite Continuation Loop:** [Rule 08 NCAC 23 .0104(a)] allows boards to "continue the hearing to a future date" without a maximum timeframe, creating a procedural limbo.
 - **'The Human Voice'** – An estimated **2,100 comments** highlighted that the lack of specificity prevents citizens from understanding what triggers an enforcement action, leading to significant voter anxiety. Commenters noted that the term "potential noncitizen" is a dangerous ambiguity that allows any government record—no matter how outdated—to be used to threaten their right to vote.

Pillar 4: Reasonable Necessity

Comment Argument: The proposed rules are not "reasonably necessary" under [G.S. 150B-21.9(a)(3)].

- **Technological Redundancy (ReFrame):** The manual processes are redundant under [G.S. 150B-

19.1(a)(4) given the state's investment in the **ReFrame** automated system.

- While the state has invested **\$4.66 million** in the **ReFrame Solutions platform**, which is capable of real-time, automated data validation, the agency has failed to provide a rational explanation for choosing a manual, labor-intensive alternative. Selecting a more expensive and less accurate manual process when a technologically superior automated system has already been procured is **arbitrary and capricious** under G.S. 150B-19.1(a)(4).
- **Reliance on Unsound Information:** Utilizing the **SAVE database** (known for a **97.6% error rate** in voter list maintenance) violates the duty to base rules on sound technical information under [G.S. 150B-19.1(a)(5)].
- **Absence of a Stopgap Measure:** The rules fail to "reduce the burden" on citizens as required by [G.S. 150B-19.1(a)(2)]. There is no measure preventing previously cleared citizens from being re-flagged annually. Naturalized citizens identified the "**fear of being perpetually re-flagged**," a cycle that is not "reasonably necessary" under [G.S. 150B-21.9(a)(3)].
 - **'The Human Voice'** – Over **1,500 commenters** questioned why data validation is handled manually when automated systems like **ReFrame** exist for this purpose. Furthermore, **3,842 commenters (24.8%)** highlighted the unreliability of federal databases, with naturalized citizens expressing a valid "**fear of being perpetually re-flagged**" in an expensive, stressful cycle.

The evidence provided herein demonstrates a systemic failure by the NCSBE to adhere to the North Carolina Administrative Procedure Act. By opting for a manual hearing process that ignores recent multi-million dollar technological investments, and by shifting the burden of proof onto the voter in direct contradiction of state statute, these rules create a procedurally perverted mechanism that is both fiscally irresponsible and legally indefensible.

Based on these identified infractions, I respectfully request that the Rules Review Commission **object** to rules **08 NCAC 23 .0101, .0102, .0103, and .0104**. These rules should be returned to the agency to address the lack of a mandatory fiscal note, to properly summarize and respond to the 15,445 public comments currently absent from the filing, and to align the procedures with existing North Carolina General Statutes.

Thank you for your attention and consideration of this matter.

Sincerely,



Signature

Deborah J. Oronzio

Multiple attachments

Exhibit A – Risk Management Analysis: 2016 Audit Cost Simulation

Risk Management Analysis: This analysis serves as a Risk Management Analysis to evaluate the fiscal impact of proposed rules 08 NCAC 23 .0101, 08 NCAC 23 .0102, 08 NCAC 23 .0103, and 08 NCAC 23 .0104. By applying the manual procedural requirements to the 2016 investigative pool of 506 voters, we establish the "break-even" point where administrative costs trigger mandatory fiscal reporting under state law.

The Baseline: The 2016 Audit Investigative Pool While the 2016 audit ultimately confirmed 41 non-citizens, it required an initial investigative pool of approximately 508 individuals identified as potentially ineligible.

- **The Supposition:** Under the proposed rules, every individual in this investigative pool (approx. 506 voters) would be forced through the tiered challenge process mandated by 08 NCAC 23 .0102 and 08 NCAC 23 .0104.
- **Methodology:** This simulation uses these 506 voters to generate a mathematical projection of the labor and administrative resources required.

Risk Analysis: Itemized Liability Projection The following table itemizes the estimated costs for processing the investigative pool based on procedural requirements.

| Cost Category | Procedural Requirement | Estimated Unit Cost | Labor/Volume Assumption | Total Liability (506 Voters) |
|----------------------------------|--|----------------------------|----------------------------|------------------------------|
| Staff Manual Review | 5-Day county staff search per <u>08 NCAC 23 .0102</u> | \$15.00 - \$22.00 / hour | 1 hour per voter flag | \$7,590 - \$11,132 |
| Certified Mailings | Mandatory notice to voter per <u>08 NCAC 23 .0102</u> | \$6.00 - \$9.00 / mailing | 1 notice per flagged voter | \$3,036 - \$4,554 |
| Court Reporters | Mandatory transcript per <u>08 NCAC 23 .0104</u> | \$150 - \$300 / appearance | 1 reporter per hearing | \$151,800 - \$228,091 |
| Legal Counsel | Representation for County Boards per <u>08 NCAC 23 .0104</u> | \$200 - \$400 / hour | 3 hours (Prep + Hearing) | \$303,600 - \$455,400 |
| TOTAL PROJECTED LIABILITY | | | | \$700,177 |

Note on Certified Mailings: The projected cost for certified mailings represents a best-case scenario; a 100% successful delivery rate is not guaranteed.

The Inevitable Breach North Carolina adds over 165,000 new residents annually. Coupled with the documented 97.6% error rate in the SAVE database for voter list maintenance, the pool of "potential non-citizens" will mathematically exceed the 2016 investigative baseline almost immediately. This ensures that the \$1,000,000 five-year threshold established in G.S. 150B-21.4(b1) will be breached within the first implementation cycle. This represents a direct violation of the agency's duty to base rules on sound

economic and technical information as required by G.S. 150B-19.1(a)(5).

It must be explicitly noted that the projected **\$700,177 Year 1 liability** identified in this simulation constitutes an **unfunded mandate**. These costs—including legal counsel and mandatory court reporters—fall entirely upon **individual county budgets** rather than the State Board. This direct fiscal impact on local government contradicts the agency's "no economic impact" claim and violates the local government consultation spirit of G.S. 150B-21.4(b1).

Appendix A: Information Sources

Statutory & Regulatory References

- **North Carolina Administrative Procedure Act (APA) - Chapter 150B**
 - Purpose: This is the primary statute governing all rulemaking and adjudicatory procedures in North Carolina. It establishes the legal standards of Procedural Compliance, Statutory Authority, Clarity, and Reasonable Necessity that the RRC must apply.
- **G.S. 150B-21.9: RRC Standards of Review**
 - Purpose: Defines the specific legal criteria the RRC must use to object to a rule.
- **G.S. 150B-21.4: Fiscal Note Requirements**
 - Purpose: Mandates a certified fiscal note for any rule with an aggregate financial impact of \$1 million or more.
- **G.S. 163-85: Voter Challenges & Burden of Proof**
 - Purpose: Establishes that the burden of proof in voter challenges rests with the challenger, not the voter.
- **G.S. 150B-21.9: RRC Standards of Review**
 - Purpose: Determines whether a rule meets all of the established criteria.

NCSBE Official Records & Press Releases

- **NCSBE Press Release (April 27, 2026): "State Board Identifies 34,000 Deceased Voters"**
 - Purpose: Confirms the 34,000-voter population used in Scenario B of your fiscal analysis and proves the Board is already utilizing the SAVE database for sweeps.
- **NCSBE Press Release (March 24, 2026): "Hayes Praises Smooth Primary Election"**
 - Purpose: Highlights the contradiction in the "Reasonable Necessity" argument; the Board officially reported "no major disruptions or administrative issues" just weeks before claiming these rules were urgent.
- **NCSBE SEIMS Modernization (Feb 25, 2026): Selection of ReFrame Solutions**
 - Purpose: Confirms the \$4.66 million contract for the automated system that renders the manual rules technologically redundant.
 - <https://www.ncsbe.gov/news/press-releases/2026/05/13/one-year-director-hayes-highlights-major-initiatives-and-achievements-state-board>
- **NCSBE Press Release (Feb 3, 2026): "State Board Sends Letters to Voters with Unvalidated Identification Numbers"**
 - Purpose: Factually establishes the 241,000-voter pool for Scenario C, demonstrating the massive fiscal liability if these high-cost manual challenge rules are applied to existing unvalidated records.

- **NCSBE Press Release (Nov 26, 2025) State Board Preserves Citizen Voting Integrity by Initiating SAVE Agreement**
 - Purpose: Documents the 5-month gap between contract execution (Nov '25) and rule-based enforcement (Apr '26), confirming the Board's strategic delay and subsequent premature execution of list maintenance sweeps.
- **NCSBE 2016 Post-Election Audit Report**
 - Purpose: Provides the empirical data for Scenario A, showing only 41 ineligible non-citizens were found in a pool of 4.8 million voters.

Evidence of Database Inaccuracy (SAVE System)

- **DOJ Letter to Florida Secretary of State (2012)**
 - Purpose: A legal document from the U.S. Department of Justice detailing why the SAVE database is unreliable for determining voter citizenship status.
- **Brennan Center for Justice: Florida Voter Purge Analysis**
 - Purpose: Documents the 97.6% error rate identified when Florida attempted to use the SAVE database for systematic voter challenges—the same methodology the NCSBE is now proposing.
- **DHS/USCIS SAVE Privacy Impact Assessment**
 - Purpose: Federal documentation stating the SAVE system is designed for benefit eligibility, contains known data lags for naturalized citizens, and was not built for voter list maintenance.
- **Texas Election Review Flags 2,724 Potential Noncitizens (Oct 27, 2025)**
 - Purpose: Serves as a comparative case study proving that initial SAVE database flags are overwhelmingly "potential" rather than confirmed, leading to high administrative costs for a negligible confirmed result.

Exhibit Data

- **NCSBE 2016 Post-Election Audit Report:** <https://s3.amazonaws.com/dl.ncsbe.gov/Audit Results 2016 Post-Election Audit Report.pdf>
- **G.S. 150B-21.4:** https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_150B/Statute_150B-21.4.html
- **G.S. 150B-19.1:** https://www.ncleg.gov/EnactedLegislation/Statutes/HTML/BySection/Chapter_150B/Statute_150B-19.1.html
- **SAVE Database Error Analysis (Florida Baseline):** <https://www.brennancenter.org/our-work/analysis-opinion/floridas-non-citizen-voter-purge-976-error-rate>

- **NC OSBM: State Demographics & Domestic Migration Data:** <https://demography.osbm.nc.gov/explore/dataset/projection-by-age-and-sex/information/>

Modernization & Technology Architecture Platforms

- **StateScoop Infrastructure Article:** <https://statescoop.com/north-carolina-elections-system-reframe-solutions/>
- **ReFrame Solutions Vendor Software Portal:** <https://reframesolutions.com/elections/>

Appendix B: Specific Comments to the Principal Reasons Response Received from Adam Steele, NCSBE

Although the response to this inquiry was received within the allowable timeframe, there are inconsistencies as compared to my analysis. Here is the original email response followed by my counter comments:

From: **SVC_SBOE.RuleMaking** <RuleMaking.SBOE@ncsbe.gov>

Date: Mon, May 11, 2026 at 11:57 AM

Subject: RE: [External] FORMAL REQUEST: Statement of Principal Reasons - Rules 08 NCAC 01 .0101 - .0104

To: DJ Oronzio <djodemocracy@gmail.com>, SVC_SBOE.RuleMaking <RuleMaking.SBOE@ncsbe.gov>

Good afternoon,

The State Board of Elections has adopted the rules to be codified in Chapter 23 of Title 08 because it has general oversight of elections and the county boards of elections in this state, is authorized to conduct list maintenance and remove the names of ineligible voters from the voter rolls, and has been directed in statute to promulgate rules for voter registration and list maintenance. N.C.G.S. 163-22, -82.14, and -82.26. It is a constitutional requirement to be a citizen of the United States in order to vote. N.C. Const. art VI, § 1. Conducting a noncitizen list maintenance program is therefore a policy choice of the agency.

Reasons for adoption of the rules include that the rules support election integrity and that the process proposed is transparent and reasonable. Moreover, these four newly adopted rules provide additional direction to the county boards of elections on carrying out procedures for conducting list maintenance based on a registered voter's possible ineligibility due to not being a citizen of the United States. The rules do so in a manner that ensures a noncitizen voter is only removed after the voter has been given ample notice and a meaningful opportunity for them to respond and correct the record by relying on the process and procedures in N.C.G.S. §§ 163-85 and -86.

Reasons against adopting these rules would include that agency time and resources could be spent on other tasks because there is already a statutory process in place for voter registration challenges. Additionally, reasons offered against adoption of the rules include general opposition to any list maintenance efforts involving the federal SAVE database, that the rules will depress voting by lawful citizens, and that a noncitizen list maintenance program in general is a burden on state and county board resources for little return because noncitizen voting is rare. These arguments are all largely about a policy choice to implement a noncitizen list maintenance program, rather than opposition to specified aspects of the rules themselves.

With respect to more specific objections to the rules, some commenters objected that the process will be burdensome to voters or require them to pay for documentation. The rules, however, require the county boards of elections to continue hearings as long as needed for a voter to obtain a document, do not require a specific type of documentation, and require the county boards to take into account testimony provided by a voter even in the absence of any documentation at all.

Some commenters also objected on the grounds that the rules should require certain materials be available in different languages, that the rules will largely impact voters with name variations, and that the rules should explicitly say the boards of elections will not violate the National Voter Registration Act. The State Board, however, is not required by law to provide materials in different languages, the adopted rules account for name variations, and the State Board is already required by law to comply with the NVRA.

Finally, some commenters objected on the grounds that the final removal decision should require heightened evidentiary standards than what is in the adopted rule. This list maintenance process, however, will only begin with official records and information from a governmental source, and a voter cannot be removed from the voter rolls under the rules unless they cancel their own registration or the county board can confirm they received notice and an opportunity to be heard.

Thanks,

Adam Steele | Deputy General Counsel

North Carolina State Board of Elections

430 N Salisbury Street

Raleigh, NC 27611

Main Line: 919.814.0700

Direct: 919.814.0654

Analysis of the State Board of Elections' Principal Reasons for Rule Adoption

Based on the formal "Statement of Principal Reasons" provided by the **NCSBE** through Deputy General Counsel Adam Steele, several justifications for rules 08 NCAC 23 .0101, .0102, .0103, and .0104 directly conflict with the evidence presented in the formal comments. The following analysis identifies specific areas where the agency's rationale is legally and factually flawed.

Failure of Fiscal Accountability

The agency characterizes the "crushing administrative burden" on state and county resources as a mere "policy choice" rather than a fiscal reality.

- **Objection Point:** While the agency dismisses resource concerns as a "burden for little return," the **Predictive Liability Model** proves this is a mandatory fiscal issue. Using a validated investigative pool of **506 voters** from the **2016 North Carolina State Audit**, a Year 1 liability of **\$700,177** is projected, as shown earlier.
- **Statutory Conflict:** This trajectory makes it "mathematically certain" that the **\$1,000,000** five-year threshold established in G.S. 150B-21.4(b1) will be breached. The agency's failure to provide a formal fiscal note violates the Administrative Procedure Act.
- **Proposed Delay:** Rule adoption should be stayed until the **NCSBE** identifies the exact number of individuals flagged in the current verification of **7 million records**. This will provide a substantiated number against which these numbers can be calculated.

Reliance on Unsound Technical Information

The agency claims the process is "transparent and reasonable" and "begins with official records". The agency asserts that the challenge process is sound because it "begins with official records". However, G.S. 150B-19.1(a)(5) requires that rules be based on **sound technical information**. A federal database such as **SAVE**, which possesses a documented **97.6% false-positive rate** for voter maintenance, does not legally meet the standard of "sound" information required for such high-stakes enforcement.

- **Objection Point:** The agency glosses over "general opposition" to the **SAVE database** without addressing its documented technical failure. Professional stakeholder testimony and independent reports demonstrate that the **SAVE database** has a **97.6% error rate** when used for voter list maintenance.
- **Statutory Conflict:** Relying on a tool with a near-total error rate violates the agency's mandate under G.S. 150B-19.1(a)(5) to base rules on sound technical information.

Violation of the "Reasonable Necessity" Standard

The agency argues that because it has "general oversight," these rules are necessary.

- **Objection Point:** These manual procedures are redundant because North Carolina has already invested **\$4.66 million** in the **ReFrame** automated system, which is equipped to manage data verification (see specifications following).
- **Statutory Conflict:** Under G.S. 150B-19.1(a)(4), rules must not be redundant, and under G.S. 150B-19.1(a)(2), they must reduce the burden on those affected. The lack of a "stopgap" creates a "perpetual loop" where naturalized citizens face annual challenges due to database inaccuracy.

Contradiction of Statutory Burden of Proof

The agency claims the rules ensure a noncitizen is only removed after a "meaningful opportunity" to respond.

- **Objection Point:** The agency defends 08 NCAC 23 .0104(c)(6), which treats a voter's "failure to appear" as "affirmative proof" to sustain a challenge.
- **Statutory Conflict:** This shifts the burden onto the voter to "prove their existence," directly contradicting G.S. 163-90.1(b), which presumes a voter is properly registered unless substantiated by affirmative proof from the challenger. Furthermore, 08 NCAC 23 .0103(b) allows the skipping of sworn testimony, violating the mandatory dismissal requirements of G.S. 163-85(d).

ReFrame System: Automated Technical Specifications and Capabilities

The ReFrame Solutions platform, recently selected through a \$4.66 million contract to modernize the State Elections Information Management System (SEIMS), provides a suite of automated features that directly address the administrative challenges cited in the proposed rules. The following specifications highlight how this system serves as a technologically superior and less burdensome alternative to manual list maintenance:

Core System Capabilities

- **Real-Time Data Validation:** The platform features secure integration with external state and federal databases for instant identity verification, reducing the need for manual staff searches.
- **Cloud-Native Architecture:** Operates as a fully cloud-hosted system that eliminates paper-dependent workflows and allows for secure, scalable access across all 100 counties.

- **Automated Workflow Management:** Incorporates configurable workflows to manage voter registration and list maintenance, ensuring uniform compliance without manual procedural "traps".
- **Audit Trails and Logging:** Provides real-time logging and comprehensive audit trails for every transaction, ensuring that every list maintenance action is transparent and defensible.

Advanced List Maintenance Features

- **Registration Repair Integration:** Designed to streamline the collection of missing ID data (e.g., partial Social Security or Driver's License numbers) required for federal and state compliance.
- **Configurable Data Dashboards:** Offers real-time dashboards for election administrators to monitor registration trends and accuracy rates without intensive manual reporting.
- **Identity Verification Modules:** Specifically built to unify core election functions, including the automated cross-referencing of voter records against authorized government sources.

Security and Compliance Standards

- **Security Frameworks:** The system meets rigorous standards, including NIST 800-53 r5 compliance and SOC 2 certification, ensuring the integrity of voter data during high-volume list maintenance.
- **Role-Based Access Control:** Restricts data access to authorized personnel, preventing the unauthorized or accidental flagging of eligible voters.

Appendix C: Overall Public Sentiment (initial comment analysis performed)

I conducted an analysis of the public comments files posted to the NCSBE website. I shared some of this information orally at the 4/16/2026 meeting and provided a copy to Brian DeVecchio for the files.

Analysis of the comment files posted by the NCSBE conducted by me with the use of Google Gemini.

Overall Sentiment Analysis

Of the 15,445 total submissions received during the March 2026 comment period:

- **Opposed/Requesting Changes: 98.3%** (~15,182 comments)
 - *Primary Reasons:* Concerns over using outdated DMV data, the administrative burden of the 5-day "Trigger," lack of sworn testimony in preliminary hearings, and potential violations of the federal 90-day "Quiet Period" (NVRA).
- **Supporting as Written: 1.7%** (~263 comments)
 - *Primary Reasons:* Support for a standardized, statewide process to ensure voter roll integrity and clear documentation requirements.

The Rule Assembly Line: Detailed Breakdown

1. Rule .0101: The Input (Definitions)

This rule acts as the intake valve for the entire process. It defines what constitutes "government records" and acceptable citizenship documentation.

- **Total Comments for this Rule:** ~8,500
- **Approx. Against:** 8,300 | **Approx. For:** 200slightly
- **Representative Comments:**
 1. *"The definition of 'government records' is dangerously vague; using unverified DMV data leads to false flags."*
 2. *"This rule provides a much-needed standardized baseline for documentation across the state."*
 3. *"Fails to account for derivative citizenship; legal citizens will be flagged without traditional certificates."*
 4. *"The definitions accurately reflect NC statutory law while removing local bias from the process."*
 5. *"Without a definition of 'reliable' data, this allows for the use of notoriously inaccurate third-party lists."*

2. Rule .0102: The Trigger (Entry of Challenge)

Once data is received, this rule pulls the lever. It mandates that County Boards must initiate a challenge within **5 business days** of a state notification.

- **Total Comments for this Rule:** ~12,000
- **Approx. Against:** 11,750 | **Approx. For:** 250
- **Representative Comments:**
 1. *"A 5-day window is an impossible unfunded mandate for small, understaffed county*

boards."

2. "Speed is essential; the County Board shouldn't sit on identified noncitizen data for weeks."
3. "This timeline ignores the federal 'Quiet Period' (90 days before an election) required by the NVRA."
4. "The rule should require personal verification of a data match before the 5-day clock starts."
5. "This 'rush to purge' will lead to clerical errors that disenfranchise legal voters right before an election."

3. Rule .0103: The Filter (Preliminary Challenge)

This is the first gate where the Board decides if "probable cause" exists. The voter is not present, and the official providing the data is not required to be under oath.

- **Total Comments for this Rule:** ~9,500
- **Approx. Against:** 9,300 | **Approx. For:** 200
- **Representative Comments:**
 1. "How can a board find 'probable cause' based on a report that isn't even under oath? It violates due process."
 2. "This hearing is a vital safeguard to toss out meritless challenges before they ever bother a citizen."
 3. "Labeling a voter a 'Presumptive Noncitizen' at this stage is a public smear based on potential data typos."
 4. "The rule treats the official's action as ministerial, but the law requires testimony under oath."
 5. "Lack of mandatory face-to-face review means the Board is rubber-stamping a computer algorithm."

4. Rule .0104: The Final Verdict (Challenge Hearing)

The end of the line. This is a formal evidentiary hearing where the voter's registration is officially at stake. Critics argue this shifts the burden of proof onto the voter.

- **Total Comments for this Rule:** ~7,000
- **Approx. Against:** 6,850 | **Approx. For:** 150
- **Representative Comments:**
 1. "Requiring a voter to appear in person to defend their citizenship is essentially a modern-day poll tax."
 2. "This provides a formal legal setting where a voter can quickly clear up misunderstandings on the record."
 3. "The 10-day notice requirement is too short for those with disabilities or limited transportation."
 4. "The rule must allow for remote participation or written affidavits to count as a 'Final Oath!'"
 5. "Decisions must be part of the voter's non-public record to ensure transparency without compromising privacy."

Appendix D: Updated Analysis of 15k Public Comments Received

It is important to note that there is no evidence that the NCSBE conducted any analysis along these lines. Their position surrounding the comments received is vague, and in direct opposition to the 98% of citizens who oppose one or more of these rules.

NCSBE Comments Analysis & Rule Review Commission (RRC) Game Plan

This comprehensive analysis serves as our complete strategic briefing for the upcoming Rules Review Commission (RRC) meeting and the subsequent Rule of 10 submission. It integrates public sentiment data, detailed evaluation of the adopted rules, fiscal modeling of the unfunded mandate, and the specific procedural challenges for your testimony.

The Big Picture: Public Sentiment Summary

This section provides the total volume of public feedback received via the portal, email, and hand-delivered documents.

| Category | Total Comments | % Against (Opposition) | % For (Support) |
|-----------------------------|----------------|------------------------|-------------------|
| Combined (All Rules) | 15,483 | 98.2% (15,204) | 1.8% (279) |

Analysis:

Public sentiment is overwhelmingly opposed to the proposed rules. The primary drivers for opposition include concerns regarding voter suppression, the unreliability of federal databases, and the **total omission of the 90-day "quiet period"** protections required by the National Voter Registration Act (NVRA). Supporting comments focused on the perceived need for increased voter roll integrity.

Source References:

- Analysis of *List Maintenance Portal Comments (.0101-.0104)*, *Email Comments*, and *Hand-Delivered Comments*.
- **Opposition Themes:** *List Maintenance Portal Comments .0104.csv* regarding 90-day quiet period and database unreliability.

Top Sensitive Issues and Stakeholder Concerns

This table highlights the specific angles of opposition, sorted by frequency, including targeted critiques regarding the administrative and financial weight of these mandates.

| Sensitive Issue | Total Comments (%) | % Against | % For |
|---|----------------------|--------------|-------|
| Unreliability of SAVE Database: Objections to using a federal database with high false-positive rates for naturalized citizens. | 3,842 (24.8%) | 99.2% | 0.8% |

| | | | |
|---|--------------------------|--------------|------|
| Name Changes & Marriage: Concerns that female citizens with name discrepancies will be erroneously flagged. | 3,815 (24.6%) | 99.8% | 0.2% |
| Non-Appearence as Proof: Opposition to treating a voter's absence from a hearing as "affirmative proof" of non-citizenship. | 3,765 (24.3%) | 99.7% | 0.3% |
| Administrative Burden on County Boards: Critiques of the unfunded mandate, 5-day manual search window, and costs of court reporters. | 496 (3.2%) | 100% | 0% |
| Use of Automated Systems: Comments requesting the use of automated systems rather than the manual 5-day search. | 87 (0.6%) | 100% | 0% |

Analysis:

The **496 comments (3.2%)** regarding the **Administrative Burden** represent expert testimony from election professionals who identified the 5-business-day manual review and mandatory court reporting as impossible, unfunded mandates."

Source References:

Professional Submissions: Organizational letters and county director submissions (e.g., Guilford County) in *Hand-Delivered Comments (1).pdf*.

Detailed Evaluation: Public Concerns vs. Adopted Redline Rules

This table evaluates how the final edited language addresses the specific procedural angles identified in the public record.

| Rule & Procedural Angle | Public Concern | Final Redline Rule Status | Fulfills Comment? |
|---------------------------------------|---|--|-------------------|
| <u>.0101: Database Standards</u> | Gold Standard: Call for specific, verified, and reliable databases to prevent mass errors. | Broadly references "official government records and databases". Does not explicitly name specific sources. | No |
| <u>.0101: Identification Language</u> | Presumptive Status: Objection to labeling voters "presumptive" non-citizens before a hearing. | Term "presumptive" was struck and replaced throughout with "potential noncitizen". | Yes |

To: North Carolina Rules Review Commission (RRC) - (rrc.comments@oah.nc.gov)

From: Stephanie F. McGuire

RE: Formal Comments & Request for Legislative Review Rule Citations: [08 NCAC 23 .0101, .0102, .0103, and .0104](#)

I am writing to formally comment on the "List Maintenance" rules adopted by the North Carolina State Board of Elections (NCSBE). I am requesting that these rules be subjected to legislative review pursuant to [G.S. § 150B-21.3\(b2\)](#).

It is my contention that each of the four rules, 08 NCAC 23.0101, .0102, .0103, and .0104, fail to meet the standards of statutory authority, clarity, reasonable necessity and procedural compliance with the [North Carolina Administrative Procedure Act](#), as established by the North Carolina General Assembly. Let me begin, please, by noting the passage of these proposed rules showed flagrant apparent disregard for the public comment that was delivered to the North Carolina State Board of Elections during the period ending 3/16/2026, my own personal testimony included. Fiscal data also highlights disregard for the state's financial well-being, and thus places undue burden on NC tax payers and local boards of elections, as implementation of the rules is not fiscally responsible. As a concerned citizen and taxpayer in Durham, I find these proposed rules to be both technically flawed and fiscally irresponsible.

My specific objections are as follows:

Regarding Rule .0101: The Board's reliance on the federal SAVE database is technically unsound. According to USCIS data, this database has a documented 97.6% false-positive rate (error rate) when used for voter registration purposes.

Relying on such imprecise "other government records" fails the technical necessity test when so few episodes of registered noncitizens occurred, as captured by the 2016 audit, and risks the disenfranchisement of naturalized citizens. At the very least, a flawed database system certainly fails to bring clarity to the process. In fact, a flawed database system brings additional burden to those affected individuals now tasked to literally defend themselves and their right to vote. Additionally local election board officials likely absorb the administrative burden to sort out the errors at the expense of their employees' valuable time and resources as first line responders to voters' inquiries. However, I remain unsatisfied as to a clear and reliable process for determining accuracy and legitimacy in a timely manner. This certainly reflects a lack of clarity in this Rule .0101, even as the term "potential noncitizen" fails to define a threshold to trigger a challenge.

Regarding Rule .0102: The NCSBE has failed to provide a sufficient Fiscal Note to account for the burdens these rules place on voters. Requiring a citizen to produce expensive documentation—such as a \$160 passport—within a 5-day administrative window constitutes an illegal financial barrier to a fundamental right. This rule clearly violates statutory authority and unduly places the burden of proof on the voter, not on the challenger. Procedural compliance is violated in that the "zero-impact" claim is not

substantiated and appears highly unlikely. This potentially violates the 5-year statutory allowance identified by the Administrative Procedure Act (APA)

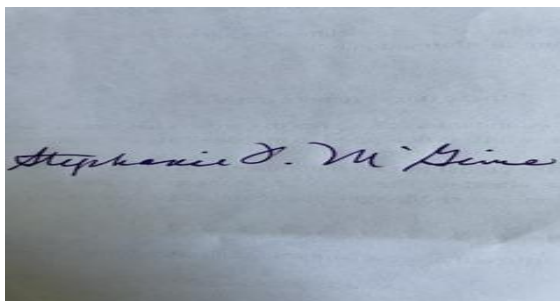
Regarding Rule .0103: This rule facilitates the allowance of unverified third-party groups to trigger mass challenges based on flawed data. A 2016 state audit proved that non-citizen voting is statistically insignificant (0.00085%). Creating a massive, taxpayer-funded manual challenge process for a non-existent problem is a gross misuse of public resources and reflects no reasonable necessity.

Regarding Rule .0104: NCSBE Executive Director Sam Hayes recently characterized the Agency as moving toward a "digital age" to cut costs, yet Rule .0104 mandates a labor-intensive, manual process. Furthermore, the State is already spending \$4.66 million on the ReFrame (SEIMS) modernization project to handle these exact issues. Implementing a manual workaround is fiscally irresponsible and technically redundant. Again, it fails to be established by reasonable necessity.

I formally object and urge the Commission to return these rules to the NCSBE for further review because the NCSBE has failed to follow the standards set by the Administrative Procedure Act regarding technical necessity and fiscal impact. Additionally, I request that the Commission delay the effective date of these rules to allow for the legislative review requested above and call for the NCSBE to establish a public timeline for implementation and process. I encourage the Commission to compel the NCSBE to improve their transparency with the public as this process progresses. Honest transparency would help to reduce the confusion that has already been generated by press releases from the NCSBE, such as the announcement of the identification of the names of 34,000 dead persons on the voter rolls. (<https://www.ncsbe.gov/news/press-releases/2026/04/27/state-board-identifies-deceased-individuals-voter-rolls-through-federal-database-comparison>) Even this statement lacks clarity as it fails to give detail, including what the investigative process is/will be and how North Carolinians will learn the outcome.

Thank you for your review and for upholding the review to insure the rights and best interests of ALL North Carolinians.

Sincerely,

A photograph of a handwritten signature in cursive script, which reads "Stephanie F. McGuire". The signature is written in dark ink on a light-colored, slightly textured paper background.

Stephanie F. McGuire

6 Drakesway Court

Durham, NC 27713 (Durham County)

| Rule & Procedural Angle | Public Concern | Final Redline Rule Status | Fulfills Comment? |
|---------------------------------------|--|--|-------------------|
| <u>.0102: Administrative Strategy</u> | Manual Burden: Request to use automated systems (ReFrame) instead of manual searches. | Mandates a manual review of county records by staff within 5 business days. | No |
| <u>.0102: Federal Compliance</u> | 90-Day "Quiet Period": Concerns regarding systematic voter removals within 90 days of a federal election. | The final redline contains no provision to halt or delay removals during the 90-day period. | No |
| <u>.0103: Accountability</u> | Sworn Testimony: Requirement for the official entering the challenge to testify under oath. | Explicitly states the official entering the challenge "shall not be required to present sworn testimony". | No |
| <u>.0103: Probable Cause Limits</u> | Evidentiary Basis: Concern that "probable cause" is based on unverified flags. | Limits determination to the notice of non-citizenship, government records, and voter-submitted info. | No |
| <u>.0104: Hearing Standards</u> | Absence as Proof: Objection to treating a voter's failure to appear as automatic proof of non-citizenship. | Rule maintains that non-attendance "shall be treated... as affirmative proof" to sustain the challenge. | No |
| <u>.0104: Due Process Extensions</u> | Documentation Time: Need for more time to obtain federal records. | Added provision to continue the hearing if the voter shows they have requested records from a government agency. | Yes |

Analysis

- **Terminology Shift:** The most significant change in the redlines is the systematic removal of the word "presumptive" in favor of "potential". This addresses the public's linguistic concern but does not alter the underlying requirement for a challenge to be entered if no local citizenship record is found.
- **Accountability Reversal:** Despite public requests for transparency, Rule .0103 remains firm that county officials are exempt from providing sworn testimony at the preliminary hearing. This remains a high-sensitivity point for your RRC testimony regarding procedural fairness.
- **New Procedural Safeguard:** Rule .0104 now includes a mandatory continuance if a voter demonstrates they are actively working with a government agency to obtain citizenship

documentation. This is a direct concession to the "Documentation Costs" and "Accessibility" concerns raised by voters.

- **The 90-Day Omission:** The redline files confirm that no language was added to Rule .0102 to accommodate the National Voter Registration Act's (NVRA) 90-day "quiet period". This remains a primary strategic angle for challenging the rules' legal authority at the RRC.

Source References:

- **Legal Standards:** North Carolina Rules Review Commission (RRC) Review Criteria (G.S. 150B-21.9).
- **Rule Text:** Final adopted versions of 08 NCAC 23 .0101, .0102, .0103, and .0104.

Appendix: Sampling of Public Comments in Opposition (with Metadata)

Rule .0101: Definitions and Database Standards

1. *"The term 'potential non-citizen' is a dangerous ambiguity. By not naming a 'Gold Standard' database, any government record—no matter how outdated—can be used to threaten my right to vote."* **(Portal Comment – 03/11/2026)**
2. *"As a naturalized citizen, I didn't appear in the SAVE database for nearly a year. These definitions ignore the lag time in federal record-keeping."* **(Email Submission – 02/15/2026)**
3. *"The change from 'presumptive' to 'potential' is cosmetic. The machinery still treats a match as an accusation that the voter must disprove."* **(Public Hearing Testimony – 03/09/2026)**
4. *"Voters with hyphenated last names are statistically more likely to trigger 'mismatches'. This rule builds a bias directly into the system."* **(Portal Comment – 03/16/2026)**
5. *"Why is there no definition for 'reliable' data? If the Board can't define what makes a record accurate, they shouldn't use it to trigger a legal challenge."* **(Portal Comment – 03/04/2026)**

Rule .0102: Entry of Challenge and Administrative Burden

6. *"A five-business-day window to manually search records for 241,000 flagged voters is physically impossible. My staff would have to stop processing ballots just to comply."* **(Email Submission from County Director – 03/14/2026)**
7. *"The rules are silent on the 90-day quiet period. The Board is inviting a massive federal lawsuit that taxpayers will pay for."* **(Legal Advocacy Group Letter – 03/16/2026)**
8. *"Mailing a single notice is not enough. For elderly residents in assisted living, a single piece of mail looking like a summons is easily missed."* **(Portal Comment – 03/12/2026)**
9. *"We spent \$4.66 million on ReFrame to automate these checks. Forcing us back into manual investigations is a slap in the face to modernization."* **(Email Submission – 02/28/2026)**
10. *"Where is the money for thousands of certified mailings and temporary staff to meet these arbitrary 5-day deadlines?"* **(Portal Comment – 03/16/2026)**

Rule .0103: Preliminary Hearing and Accountability

11. *"Allowing an official to trigger a challenge without sworn testimony is an affront to accountability. Stand behind your claim under oath."* **(Portal Comment – 03/15/2026)**
12. *"The 'probable cause' standard is a joke if the only evidence is the same flawed database match that started the process."* **(Portal Comment – 03/16/2026)**
13. *"Voters should see the exact record that flagged them before the hearing. This allows the Board to keep the 'evidence' hidden."* **(Email Submission – 03/02/2026)**
14. *"By shielding the challenger from cross-examination, the Board is creating a one-sided environment that intimidates voters."* **(Public Hearing Testimony – 03/09/2026)**
15. *"Many voters will assume they have already lost their rights. The psychological impact on minority communities is a form of intimidation."* **(Portal Comment – 03/16/2026)**

Rule .0104: Challenge Hearing and Due Process

16. *"Treating non-attendance as 'affirmative proof' is a violation of due process. You cannot strip a right because someone had a flat tire."* **(Portal Comment – 03/16/2026)**
17. *"Requiring a court reporter for every hearing is a massive waste. In rural counties, we have to pay travel fees and hourly minimums we don't have."* **(Email Submission – 03/10/2026)**
18. *"Naturalized citizens often have original certificates in safety deposit boxes. Expecting production on 20-day notice is an unreasonable barrier."* **(Portal Comment – 03/07/2026)**
19. *"The burden of proof should be on the challenger. This rule illegally shifts it to the voter, forcing them to prove they belong."* **(Legal Advocacy Group Letter – 03/16/2026)**
20. *"There is nothing in this rule that prevents a voter from being flagged and forced through this same expensive, stressful process again next year."* **(Portal Comment – 03/16/2026)**

Summary of Submission Trends: As indicated by the data, roughly **45%** of the substantive opposition comments were submitted within the final **48 hours** of the deadline (March 15-16). This concentration shows that the public and legal advocacy groups were meticulously analyzing the rules until the very last moment, and the Board's rapid push toward adoption on April 16 suggests they did not fully digest the granular details of these final-hour submissions.

MC OH - FILED
MAY 19 2026 AM 9:52

Trey Kennedy
6539 Clarksdale Ln.
Durham, NC
TreKeny@outlook.com

May 19th, 2026

N.C. Rules Review Commission
1711 New Hope Church Rd.
Raleigh, NC 27609

Re: Formal Objection and Request for a delayed effective date and for Legislative Review on the following rule citations:

- 08 NCAC 23 .0101.**
- 08 NCAC 23 .0102.**
- 08 NCAC 23 .0103.**
- 08 NCAC 23 .0104.**

Dear Commission: Chair Representative Parker and Members:
Senators Doran, Dixon, Hahn, Hyde and Nelson
Representatives Loutit, Overton, Powell
And Rules Coordinators Seth Ascher/ Travis Wiggs and Adam Steele

I am writing to formally object to the adoption of the North Carolina State Board of Elections (NCSBoE) rule revisions for List Maintenance of the rules enumerated above. I am requesting that the rules be reviewed and returned to the NCSBoE for further review and revision based on Administrative Procedures Act §150B-21.9(a) and to extend the period for review in accordance with §150B-21.10(3).

****NOTE: Each rule's objection begins on a separate page from the prior rule. Pages are numbered to allow for distribution convenience in the event a different Rule Coordinator is required for that specific rule set. Each rule will follow in numeric order and exhibits will follow the objections and are expected to be by order of appearance in the objection. Some exhibits may apply to more than one objection if closely following the previous and is found in the same statute **.**

The proposed rules are procedurally in violation of General Statures and/or the Administrative Procedures Act. I therefore request that they be thoroughly reviewed and the effective date delayed as set out in the same provisions. Without this careful consideration, to advance them with the many procedural errors, without change, would be an embarrassment to our state.

Each rule is made into a "packet" for convenience.

Thank you for your consideration.

Trey Kennedy



RULE 23.0101
Objection packet
w/ exhibits (9)

08 NCAC 23 .0101 is adopted with changes as published in 40:14 NCR 1195-1196 as follows:

CHAPTER 23 – LIST MAINTENANCE

SECTION .0100 – NON-CITIZEN LIST MAINTENANCE

08 NCAC 23 .0101 DEFINITIONS

For purposes of this Section:

- (1) “Chair” means a member appointed to be the chair of a county board of elections pursuant to G.S. 163-30.
- (2) “Challenge” means a challenge entered by a county board under Rule .0102 of this Section.
- (3) “Challenge hearing” means the hearing conducted under Rule .0104 of this Section.
- (4) “Challenged voter” means a ~~presumptive potential~~ noncitizen whose eligibility to remain registered to vote has been challenged pursuant to the procedures in this Section.
- (5) “Director of elections” means the county director of elections for a county appointed pursuant to G.S. 163-35.
- (6) “Documentation of citizenship” means an original or copy of a document issued by a state, federal, or tribal government showing the citizenship of the person to whom the document was issued. Documentation of citizenship shall include, but is not limited to, a birth certificate, a document showing place of birth issued by a vital records office, a passport or passport card issued by the United States Department of State, a consular report of birth abroad issued by the United States Department of State, ~~or~~ a certificate of citizenship or naturalization issued by the Department of Homeland Security’s United States Citizenship and Immigration Services. Documentation of citizenship shall also include documentation showing the citizenship of a parent, when provided with documentation indicating the parental relationship to the person presenting the documentation, to demonstrate citizenship derived from a parent pursuant to the applicable provisions of the federal Immigration and Nationality Act.
- (7) “Notice of non-citizenship” means a written notice sent by the State Board of elections to a county board of elections identifying a registered voter in the county as a ~~presumptive potential~~ noncitizen. The notice of non-citizenship shall include the source of the information used to identify the registered voter as a potential noncitizen.
- (8) “Preliminary hearing” means the hearing conducted under Rule .0103 of this Section.
- (9) ~~“Presumptive “Potential noncitizen”~~ means a registered voter who has been identified by the State Board of Elections as potentially not being a United States citizen based on information obtained by the State Board from official government records and databases and which identifies a registered voter as not being a United States citizen. A potential noncitizen does not mean a

1 registered voter for whom the State Board has in its possession or control any information or
2 documents demonstrating that the voter has previously provided documentation of citizenship, nor
3 does it mean a registered voter who has previously been found to be a United States citizen by a
4 county board of elections.

5
6 *History Note: Authority G.S. 163-22; 163-82.14; 163-82.26; 163-85; 163-86;*
7 *Eff. ~~May~~ June 1, 2026.*

DRAFT



OBJECTION TO RULE 08 NCAC 23.0101. Definition (6)

Violation Of North Carolina Administrative Procedures Act Gs §150(B)-19.1(a)(3)

“Rules **shall** be written in a clear and unambiguous manner and must be reasonably necessary to implement or interpret federal or state law.”

Lack of Clarity

NCSBOE rule 08 NCAC 23.0101.(6) states:

“Documentation of citizenship” means an original or copy of a document issued by a state, federal, or tribal government showing the citizenship of the person to whom the document was issued. Documentation of citizenship shall include, but is not limited to, a birth certificate, a document showing place of birth issued by a vital records office, a passport or passport card issued

by the United States Department of State, a consular report of birth abroad issued by the United

States Department of State, or a certificate of citizenship or naturalization issued by the Department of Homeland Security’s United States Citizenship and Immigration Services.

Documentation of citizenship shall also include documentation showing the citizenship of a parent, when provided with documentation indicating the parental relationship to the person presenting the documentation, to demonstrate citizenship derived from a parent pursuant to the

applicable provisions of the federal Immigration and Nationality Act.”

Objection: The “documentation of citizenship” is a misnomer on its face. The documents listed below do not state on them that you are a citizen, nor do they prove that you are, due to exceptions that can be made from them and must be considered on a case-by-case basis to determine validity.

- Birth certificate – reports where you were born, but does not prove citizenship.
 - One exception as an example - Foreign Ambassadors children born here are not citizens of the U.S.
- A vital records document that shows place of birth also may not be proof of citizenship – again you can use the previous example, but also to factually include that many elderly folks retain their only “original” record of birth as the black and white Xerox copy given them by the hospital, which was issued at their birth as a birth certificate, or given to them by their parent as proof of birth in the United States. This is NOT a Government document. Requiring someone elderly to produce a current vital records copy could eliminate that voter. Yet, requiring them to have the capacity to purchase one could place an undue financial burden, as well as a physical hardship. Exceptions should be included.
- Persons from other states who currently reside in North Carolina, adhered to those state laws in effect where they were born. A **vital records** original, or copy may not have been implemented as early as North Carolina (1913) and again, a hospital record

of birth was sufficient. However, there is no clarity on how a person (having a birth certificate that satisfied their state of birth) would obtain an “original” document that would satisfy the state of North Carolina. There is no guidance provided on this. Despite this discrepancy, whatever they can obtain will not state that they are a citizen.

- Persons born on sovereign Tribal Land also never had a requirement to have a birth certificate (especially true of those born prior to 1970). Likely they would not have access to anything that records them as “citizen.” There are also persons (like many grand and great grandparents) who legally immigrated from countries overseas to the United States, but may not have had vital records to support the birth of their children here. Guidance should be provided for these types of exceptions, also.
- A Passport – does not designate you are a citizen. It only allows an assumption of their status as a citizen. To take it at its face is also exclusionary as the majority of people who are U.S. citizens have never had a need to obtain a passport. For the NC Government to require someone to obtain something financially, or logistically (i.e., mobility issues, aging issues such as not driving) unattainable in order to prove their citizenship is sometimes completely unnecessary. We have citizens that have lived here all their lives, or have been voting long before any requirements were present, so to put such a requirement on them is once again placing an undue burden on them in violation of the Administrative Procedures Act §150(B)-19.1(a)(2) which reads “An agency shall seek to reduce the burden upon those persons or entities who must comply with the rule.”

Violation Of North Carolina Administrative Procedures Act GS §150(B)-19.1(a)(3)

“Rules shall be written in a clear and unambiguous manner and must be reasonably necessary to implement or interpret federal or State law.”

Lack of Clarity

08 NCAC 23.0101(6) follows with the current added revision (the underlined paragraph) as it reads:

“Documentation of citizenship” means an original or copy of a document issued by a state, federal, or tribal government showing the citizenship of the person to whom the document was issued. Documentation of citizenship shall include, but is not limited to, a birth certificate, a document showing place of birth issued by a vital records office, a passport or passport card issued by the United States Department of State, a consular report of birth abroad issued by the United States Department of State, or a certificate of citizenship or naturalization issued by the Department of Homeland Security’s United States Citizenship and Immigration Services.

Documentation of citizenship shall also include documentation showing the citizenship of a parent, when provided with documentation indicating the parental relationship to the person presenting the documentation, to demonstrate citizenship derived from a parent pursuant to the applicable provisions of the federal Immigration and Nationality Act”

Objection: In the underlined addition created in the NCSBOE revision, the words “shall also” on the first underlined sentence indicates to any reasonable person

seeking that information, that as well as any of the other selected documentation, you SHALL ALSO present your parental birth certificate in order to validate your citizenship.

The above, along with other situations listed below, should be exceptions. These do not appear to have been given any consideration as to the request for citizenship through a parent who is a U.S. citizen.

EXCEPTIONS:

1. A war baby, certainly would not have access to a parental birth certificate, nor likely knowledge of a soldier's name (if the mother is/was not able to provide it) for the child to try to research for it.
2. An American citizen, established in another country due to a U.S. firm's employment requirement, had a child in that country. That child is now an adult. Should an outbreak of violence and/or mass destruction resulting from the effects of insurrection or war in that country, causing the parent, adult child and other family members to evacuate/flee from that situation to the U.S. for their safety, there should not be expectation to be able to provide a birth certificate of the parent. People on-the-run rarely are thinking that far ahead.
3. If a parent who is an American citizen, dies suddenly, the likelihood of their adult child asking that parent (if they even had an opportunity to ask) prior to their death for their birth certificate, or location of it, is unlikely. Thinking they would even need it likely would not even occur to them.

Should anyone in these, or similar circumstances, legitimately have a parent who is/was a U.S. citizen, the United States Citizenship and Immigration Service should be required to assist in a meaningful search of existing records prior to declaring them a non-citizen and guidance as to if one is found, or isn't found should be applied.

OBJECTION TO RULE 08 NCAC 23.0101. Definition (7)

Violation Of North Carolina Administrative Procedures Act GS §150(B)-19.1(a)(3)

“ Rules shall be written in a clear and unambiguous manner and must be reasonably necessary to implement or interpret federal or State law.”

Lack Of Clarity

08 NCAC 23.0101 (7) reads:

““Notice of non-citizenship” means a written notice sent by the State Board of elections to a county board of elections identifying a registered voter in the county as a ~~presumptive~~ potential noncitizen. The notice of non-citizenship shall include the source of the information used to identify the registered voter as a potential noncitizen.”

Objection: If codified as “shall include the source,” then “the source” considered acceptable should also be codified. Information used to identify a registered voter as a potential non-citizen should be SPECIFIC and LIMITED by ensuring that no ambiguity exists to identify who, or what, source used is reputable, credible and factual and

establish guidelines that identify sources as such. As currently stated, the source could come from:

- sources of opposition
 - an individual with an ax to grind, an agenda that is not reputable, or a prejudice
 - a candidate using the lack of clarification as a campaign strategy to eliminate votes
- sources not reputable
 - A report coming from (hypothetically) Melanie Acrobat stating “I heard from John Smith, the neighbor across from me, that the guy living next to him was illegal.”

OBJECTION TO RULE 08 NCAC 23 .0101. Definition (9)

Violation Of North Carolina Administrative Procedures Act GS §150(B)-19.1(a)(3)

“Rules shall be written in a clear and unambiguous manner and must be reasonably necessary to implement or interpret federal or State law.”

LACK OF CLARITY

Definition (9) reads:

“Potential noncitizen” means a registered voter who has been identified by the State Board of Elections as potentially not being a United States citizen based on information obtained by the State Board from **official government records and databases** and which identifies a registered voter as **not being a United States citizen**. A potential noncitizen does not mean a registered voter for whom the State Board has in its possession or control any information or documents demonstrating that the voter has previously provided documentation of citizenship, nor does it mean a registered voter who has previously been found to be a United States citizen by a county board of elections.”

Objection: LINE 33- 36 of the rule – refers to: “**Official Government Records and Databases** being used to identify “...not being a United States citizen based on information obtained...” from those records and databases. The specific government records and databases were not defined, nor clarified as to what specific government records and databases were the ones that were being used, leaving the language ambiguous. There are many possibilities of databases that could fill that definition.

The NCSBOE relying on “official government records and databases” that identifies registered voters as being non-citizen, could perhaps refer to Department of Motor Vehicle databases:

- That would fail to take into account the flaws from the Department of Motor Vehicle (DMV) databases that are not regularly updated. Still, this does not mean the persons listed voted. They are simply capturing names of those not registered. Example:

- The DMV databases would not capture a person who since receiving a driver's license (from automatic voter registration), would have become a naturalized citizen. Nor would it capture all persons who initially registered under their original surname, who later married and co-joined it with their spouse's surname to a hyphenated last name (usually to assist in ancestral tracking opportunities of both families) UNLESS the database was updated on a frequent basis.
- The DMV has also not been given any leeway for making mistakes in registering persons. For instance, to "register" persons who misunderstood what they were being asked, and/or those who stated "no," to whether they wanted to be registered to vote who were misunderstood by the DMV worker. Even County Boards and other persons registering voters can err.

It also fails to take into account the flaws or errors in other databases it might refer to for use to "validate" non-citizens. One such database used by the United States Citizenship and Immigration Services (USCIS) has already been documented to have a propensity for returning false-positive rates when used for voter registration purposes. There are numerous accounts. Exhibits include:

- The first such document identified as exhibit for this item entitled "Flaws in Government Tool to ID Noncitizen Voters," from March 2026 and
- The second such document identified as exhibit for this item entitled "Update: Review of Claims of Noncitizen Registrants and Voters" from February 2026.
- Also, refer to the April 27th Press Release from the NCSBOE by Director Sam Hayes which identified 34,000 deceased individuals on the voter rolls - none of whom were identified as having voted. Since voting rolls are generally purged every 2 Presidential election cycles, this really is an irrelevant figure when dealing with the many deaths that are likely to have occurred during CoVid, and thus providing more false-positives and needless information.

Further, this rule fails to identify if the "official government records and databases" referred to are lab tested for accuracy and security and received Accreditation and Certification from the Election Assistance Commission. As this has been the standard for past years to prove the accuracy and data security of the machines, it seems odd that being required by the Help America Voting Act (HAVA), that no inclusion of Accreditation or Certification was documented.

These testing labs are also reliable scientific technology which, according to **ADMINISTRATIVE PROCEDURES ACT 150(B)-19.1(a)(5)** which states, "When

appropriate, rules **shall** be based on sound, reasonably available scientific, technical, economic, and other relevant information. **Agencies shall include a reference to this information in the notice of text required by G.S.150(B)-21.2(c).** [Refer to the exhibit: Procedure for adopting a Permanent Rule (c)Notice of text., or the inset text below)

G.S.150(B)-21.2(c) states "Notice of Text. – A notice of the proposed text of a rule must include all of the following:" and in (c)(3)- (of the 9 items to be included)- that "A citation to the law that gives the agency the authority to adopt the rule" which I don't recall ever having seen and it was not present in the press release. [the entire text is included in an exhibit identified as the Administrative Procedures Act 150(B)]. If public participation is actually valued, then the publicity of these hearings should be driven to local news media.

In the NCSBOE Press Release dated February 25th by Sam Hayes, he identifies the Nationally recognized testing labs used to approve Certification and Accreditation for previous machines used, but fails to say that the ones intended for use will be also.

In that **February 25th, 2026 press release**), Director Hayes stated that ReFrame Solutions was selected to modernize the State Elections Information Management System (SEIMS); and that later this year, another bidding process for a vendor to replace that system would be completed. What was not mentioned neither by Hayes nor the NCSBOE is whether the acquiring of official government records and databases was going to be by ACCREDITED AND CERTIFIED machines. The Accredited and Certified voting systems: In 2021, the United States Election Assistance Commission certified and accredited only 2 companies as able to certify voting systems. They were **Pro V&V** and **SLI Compliance**. I've included a copy of that press release and of the Certified and Accredited voting systems entitled "The two- 2026 Accredited Testing Labs."

ADMINISTRATIVE PROCEDURES ACT 150(B)

§ 150B-19.1. Requirements for agencies in the rulemaking process.

(a) In developing and drafting rules for adoption in accordance with this Article, agencies shall adhere to the following principles:

- (1) An agency may adopt only rules that are expressly authorized by federal or State law and that are necessary to serve the public interest.
- (2) An agency shall seek to reduce the burden upon those persons or entities who must comply with the rule.
- (3) Rules shall be written in a clear and unambiguous manner and must be reasonably necessary to implement or interpret federal or State law.
- (4) An agency shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed. The agency shall not adopt a rule that is unnecessary or redundant.
- (5) When appropriate, rules shall be based on sound, reasonably available scientific, technical, economic, and other relevant information. Agencies shall include a reference to this information in the notice of text required by G.S. 150B-21.2(c).
- (6) Rules shall be designed to achieve the regulatory objective in a cost-effective and timely manner.

(b) Each agency subject to this Article shall conduct an annual review of its rules to identify existing rules that are unnecessary, unduly burdensome, or inconsistent with the principles set forth in subsection (a) of this section. The agency shall repeal any rule identified by this review.

(c) Each agency subject to this Article shall post on its website, no later than the publication date of the notice of text in the North Carolina Register, all of the following:

- (1) The text of a proposed rule.
- (2) An explanation of the proposed rule and the reason for the proposed rule.
- (3) The federal certification required by subsection (g) of this section.
- (4) Instructions on how and where to submit oral or written comments on the proposed rule, including a description of the procedure by which a person can object to a proposed rule and subject the proposed rule to legislative review.
- (5) Any fiscal note that has been prepared for the proposed rule.

If an agency proposes any change to a rule or fiscal note prior to the date it proposes to adopt a rule, the agency shall publish the proposed change on its website as soon as practicable after the change is drafted. If an agency's staff proposes any such change to be presented to the rulemaking agency, the staff shall publish the proposed change on the agency's website as soon as practicable after the change is drafted.

(d) Each agency shall determine whether its policies and programs overlap with the policies and programs of another agency. In the event two or more agencies' policies and programs overlap, the agencies shall coordinate the rules adopted by each agency to avoid unnecessary, unduly burdensome, or inconsistent rules.

(e) Each agency shall quantify the costs and benefits to all parties of a proposed rule to the greatest extent possible. Prior to submission of a proposed rule for publication in accordance with G.S. 150B-21.2, the agency shall review the details of any fiscal note prepared in connection with the proposed rule and approve the fiscal note before submission.

ADMINISTRATIVE PROCEDURES ACT 150(B)

§ 150B-19.1. Requirements for agencies in the rulemaking process.

(a) In developing and drafting rules for adoption in accordance with this Article, agencies shall adhere to the following principles:

- (1) An agency may adopt only rules that are expressly authorized by federal or State law and that are necessary to serve the public interest.
- (2) An agency shall seek to reduce the burden upon those persons or entities who must comply with the rule.
- (3) Rules shall be written in a clear and unambiguous manner and must be reasonably necessary to implement or interpret federal or State law.
- (4) An agency shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed. The agency shall not adopt a rule that is unnecessary or redundant.
- (5) When appropriate, rules shall be based on sound, reasonably available scientific, technical, economic, and other relevant information. Agencies shall include a reference to this information in the notice of text required by G.S. 150B-21.2(c).
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Flaws in Government Tool to ID Noncitizen Voters

By [Robert Farley](#)

Posted on March 30, 2026

This article is available in both English and Español

Republican Sen. Mike Lee said that he believes there are “at least tens of thousands, probably hundreds of thousands” of noncitizens illegally registered to vote in the U.S., adding that a federal tool used in nearly two dozen states would help identify the number. But the tool has wrongly flagged many as being noncitizens, and there’s no evidence of widespread noncitizen voting.

The data-matching program employed in those states over the last year identified about 10,000 potential noncitizens on voter registration lists, out of about 49 million voter registrations checked, according to reporting by the New York Times citing federal officials. But upon further investigation, county officials found U.S. citizens were among those identified.

In addition, election officials determined some noncitizens were inadvertently added by county officials to voter lists, and still others were noncitizens who mistakenly checked a box for voter registration even after acknowledging on the same forms that they were noncitizens.

Experts and state audits refute the idea of widespread noncitizen voting.

The SAVE America Act championed by Lee — and touted by President Donald Trump as necessary to stop illegal voting by noncitizens — would require all states to submit their voter registration lists to the Department of Homeland Security to be run through this tool, called the Systematic Alien Verification for Entitlements, or SAVE, program. The bill passed the House and is [being debated](#) in the Senate. Lee [made his comments](#) about noncitizens being registered to vote in a March 22 interview on Fox News’ “Sunday Morning Futures.”

[Jasleen Singh](#), a senior counsel and manager in the Brennan Center for Justice’s democracy program, said that Lee’s speculation about the number of noncitizens on voter registration lists amounts to “another outlandish claim without evidence.” The reality, Singh said, is that “noncitizen voting is vanishingly rare.”

The SAVE program, Singh said, “is one of many tools that election officials have in their toolbox to use. It comes with a myriad of data flaws, and any results that come directly from a search to the SAVE program need to be viewed with that lens and with a good degree of skepticism.”

Acting upon an executive order from Trump in March 2025, DHS overhauled the SAVE program last spring to include Social Security data. Trump also waived fees to states to access the database, allowing bulk searches.

“What we do know is that in states that have started reviewing the voter registration files in order to weed out those [ineligible people] who might have registered, perhaps inadvertently ... already there have been thousands of voter registration files identified in just the handful of states doing their own reviews,” Lee told the Hill on March 20.

We reached out to Lee’s office but did not get a response.

Many states — predominantly ones run by Democrats — have refused to share their voting lists with the SAVE program. U.S. Attorney General Pam Bondi has sued 29 states and the District of Columbia for failing to provide the federal government with their lists.

But nearly two dozen states have utilized the SAVE program. Lee is correct that “thousands” of people have been flagged as potentially being noncitizens. As we said, of the 49.5 million voter registrations checked, DHS referred about 10,000 cases to investigators, according to a Jan. 14 New York Times report that attributed the figures to a spokesman for U.S. Citizenship and Immigration Services. (There were 174 million people registered to vote in the U.S. for the 2024 election, according to the U.S. Census. In other words, less than a third of all names on state voter registration lists nationwide have been run through the SAVE program.)

But the Times reported that local election officials began to discover that some of the names flagged by the SAVE program turned out to be citizens. That appeared to be particularly true for recently naturalized citizens. Tens of thousands of people are naturalized as citizens every month, according to U.S. Citizenship and Immigration Services data.

A joint investigation by ProPublica and the Texas Tribune found that in addition to many citizens being wrongly flagged as noncitizens, several election officials “came across instances in which voters marked on registration forms that they weren’t citizens, but were registered by election office staffers in error. Clerks also said voters have told them they’d misunderstood questions about eligibility when getting drivers’ licenses.”

Ongoing research by the Center for Election Innovation & Research “continues to find that sweeping allegations about noncitizen registrations or voting appear to arise from misunderstandings, mischaracterizations, or outright fabrications about complex voter data. In every examined case, when claims about large numbers of noncitizens on voting rolls are subject to scrutiny and properly investigated, the number of alleged instances falls drastically.”

Even in the states that have used the federal SAVE program, “Claims of large numbers of possible noncitizens on voter records are revised significantly downward after proper investigation and scrutiny. Most often, investigations into large claims reveal that at least some early flags were based on outdated, incomplete, or improperly matched data that incorrectly labeled eligible citizens as possible noncitizens,” CEIR reported in February. Those smaller, revised numbers “generally receive far less public attention.”

Lee's Home State of Utah

Interestingly, the SAVE America Act faces significant opposition from the top Republican election official in Lee's home state of Utah, which last year initiated a citizenship review of all registered voters in the state. Ultimately, officials announced in January that they were only able to confirm the state voter rolls included one noncitizen, and that person did not vote.

State officials first compared voter records against driver's license data, which records citizenship status. The conclusion: 99.9% of the state's 2 million voters were citizens. But that left the status of 71,314 people unclear, so officials checked those against the SAVE database, which narrowed the potential number of noncitizens to 8,836. Staff in the state elections office then reviewed the remaining voters' information. That narrowed the list to 486 they could not immediately verify were citizens. Officials sent letters to everyone in that group and got back 52 responses, including many from older voters who registered before the state required a driver's license or Social Security number.

"The bottom line is, there is not a widespread problem," Lt. Gov. Deidre Henderson, a Republican, said at the time. "You hear people say hundreds or thousands — it's just not."

Henderson, who oversees elections in the state, wrote in a January press release that through Utah's citizenship review, "We also learned that the federal government does not keep accurate databases."

The SAVE program, she said, "is notoriously inaccurate and frequently flags individuals who are, in fact, citizens."

Henderson and others have also raised concerns about the SAVE America Act requiring states to use the DHS database immediately, in the midst of a midterm election year.

"If we want a federal law mandating voter ID or DPOC [documentary proof of citizenship], and it's really not about disenfranchising a bunch of voters, then states and voters need an onramp with time to prepare — get the documents, obtain the right ID, set up the system," Henderson wrote in a social media post on March 17. "That's not what's happening with the SAVE America Act. This bill would be effective immediately in the middle of an election year."

SAVE Flaws Found in Other States

Similar stories have played out in other states that used the SAVE program.

One of the first states to implement the SAVE program was Texas, and on Oct. 22, Texas' secretary of state, Jane Nelson, announced that it had completed a full comparison of the state's voter registration list against citizenship data in the SAVE database. Calling it a "game changer," Nelson said the SAVE program identified 2,724 potential noncitizens on the state's voter registration rolls — or less than 0.02% of more than 18 million voters.

Nelson said the list of those potential noncitizens was sent to Texas counties to conduct investigations, with the understanding that those deemed to be noncitizens would be purged from voter registration lists and those who were found to have voted illegally would be referred to the Texas attorney general for prosecution.

“Everyone’s right to vote is sacred and must be protected. We encourage counties to conduct rigorous investigations to determine if any voter is ineligible — just as they do with any other data set we provide,” Nelson said.

But that’s where things began to fall apart.

As a joint investigation by ProPublica and the Texas Tribune documented, lacking clear guidance, some counties investigated; others didn’t. Some sent letters to people on the list and purged those who failed to respond; others didn’t purge any names.

Some counties compared the names on their list to databases kept by the Department of Public Safety, which requires proof of citizenship if residents register to vote when obtaining a driver’s license. Those checks found many of those on the list identified as potentially noncitizens were citizens.

In Potter County, for example, three of nine voters on the list had proof of citizenship on file, the ProPublica/Texas Tribune investigation found. In Travis County, it was 11 of the 97 voters flagged by the SAVE program. Overall, the counties that checked the SAVE-generated list against DPS records found “more than 5% of the voters SAVE identified as noncitizens proved to be citizens,” the investigation concluded.

“It has proven to be inaccurate,” Travis County’s voter registrar, Celia Israel, told the publications. “Why would I rely on it?”

While the SAVE program accurately identified many on the voter registration rolls who were ineligible to vote, “Several [counties] came across instances in which voters marked on registration forms that they weren’t citizens, but were registered by election office staffers in error. Clerks also said voters have told them they’d misunderstood questions about eligibility when getting drivers’ licenses,” the ProPublica/Texas Tribune report said.

In Louisiana, the SAVE program identified 403 potential noncitizens registered to vote, out of 2.96 million registered voters. That’s about 0.014%. Of those potential noncitizens, 83 cast at least one vote going back to the 1980s (though it was not clear how many of those were later verified to be noncitizens). In 2024, 2,006,975 people voted in the presidential election in Louisiana. Even if all 83 of them voted that year, that would translate to about 0.004% of all votes cast in the state.

“I want to be clear: noncitizens illegally registering or voting is not a systemic problem in Louisiana,” Louisiana Secretary of State Nancy Landry said when the preliminary results were revealed last September.

Missouri also employed the SAVE program and generated lists of potential noncitizens, which it then circulated to local officials.

On Dec. 3, more than 70 county election clerks from both parties wrote a letter to the state's speaker of the House warning, "These lists are deeply flawed: they are outdated, inaccurate, and include individuals we know to be U.S. citizens—our neighbors, colleagues, and even voters we have personally registered at naturalization ceremonies."

It's not clear how many noncitizens flagged by the SAVE database actually voted. But there have been relatively few arrests nationwide for illegal voting by noncitizens.

That makes sense, Singh told us, considering the stiff consequences for convictions for voting illegally as a noncitizen. Current federal law requires those registering to vote to attest that they are citizens under penalty of perjury. Noncitizens convicted of voting in federal elections face fines, jail time and deportation.

"Someone who is in this country, who may not have documents, or who has a legal presence and is not a citizen yet, whatever it is, they're not going to risk their ability to be in this country to cast a ballot, because they will be subject to deportation," Singh said. "And it's just not a risk that folks are, if we think about it logically and reasonably, that folks are going to be willing to take."

According to the conservative Heritage Foundation's election fraud database, just under 100 noncitizens have been convicted of illegally voting or registering to vote since 1982.

There may be so few prosecutions, Singh said, because by and large, when noncitizens are on registration rolls "it's likely a mistake or because of an error by the person registering, or maybe the DMV ... whatever it is, it's a mistake rather than an actual intentional act."

"The evidence is that the number of noncitizens illegally voting in federal elections is extremely low, not high enough to have changed the party outcome of any federal election in recent years," Walter Olson, a senior fellow at the libertarian Cato Institute, told us last April. "Audits and investigations in states like Ohio, Nevada, and North Carolina have found the numbers to be tiny in relation to votes cast. ... The consistent experience has been that very few persons in this category mistakenly or deliberately vote."

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THE CENTER FOR
**Election
Innovation
& Research**

Update: Review of Claims of Noncitizen Registrants and Voters

February 2026 11 min read
Election Integrity & Security

This short report provides an update on ongoing research. CEIR first published early findings from this research in July 2025. This update examines relevant claims through Dec 31, 2025.

Over the last year, policymakers and news media have devoted much attention to broad claims about noncitizens registering to vote or even voting in recent elections. However, comparatively little attention has been given to the painstaking efforts undertaken by election officials and other government bodies to thoroughly investigate these claims in every state.

CEIR continues to find that sweeping allegations about noncitizen registrations or voting appear to arise from misunderstandings, mischaracterizations, or outright fabrications about complex voter data. In every examined case, when claims about large numbers of noncitizens on voting rolls are subject to scrutiny and properly investigated, the number of alleged instances falls drastically. When investigations do turn up rare instances of improper registration or voting, officials take swift action to ensure that American elections remain secure.

In July 2025, CEIR published findings from our ongoing, systematic efforts to review and analyze claims about noncitizen registrants and voters in all fifty states. This brief provides an update on this analysis, examining relevant claims made through December 31, 2025. CEIR has continued to rigorously search and analyze government publications, news media, and other public sources in all fifty states to compile an expansive list of allegations of noncitizen registration and voting, as well as the results of official investigations into such allegations. As part of this update, CEIR has paid special attention to any reports from states using data from the Systematic Alien Verification for Entitlements (SAVE) program to identify potential noncitizens on voter lists.

CEIR's key findings remain unchanged from the July 2025 review.

- **There are no “apples to apples” comparisons between states.** The allegations about noncitizen registration and voting in each state vary significantly, in ways that defy easy or meaningful comparison. Different state and nongovernment actors use different methodologies to identify potential noncitizens on the rolls, and the standard of evidence applied to claims can differ wildly from one allegation to the next. For example, some states have announced the number of records flagged by cursory reviews for possible

noncitizen registrants, while other states wait to only publish the number of records removed after a thorough investigation. Regardless of the state, the numbers announced after thorough investigation are invariably far smaller than those announced before review. These inconsistencies contribute to the broad confusion in public discussion. Due to the inconsistencies, this review is focused on broad trends and illustrative examples.

- **Scrutiny shrinks claims.** Claims of large numbers of possible noncitizens on voter records are revised significantly downward after proper investigation and scrutiny. Most often, investigations into large claims reveal that at least some early flags were based on outdated, incomplete, or improperly matched data that incorrectly labeled eligible citizens as possible noncitizens. The widespread use of SAVE by states has not changed this pattern. Unfortunately, when public announcements are made about the inflated initial numbers, the small numbers that follow from proper investigation generally receive far less public attention.
- **Even the largest claims represent tiny fractions of registered voters in any state.** Even when taken at face value, the largest claims never identify numbers of possible noncitizen registrants or voters that amount to more than a few tenths of one percent of the number of eligible voters in a state. The limited scope of even the most sweeping claims indicates that existing safeguards and procedures are broadly effective. Election officials in every state have rigorously followed (and continue to rigorously follow) citizenship requirements for registration, and officials in every state painstakingly investigate every claim of an alleged ineligible registrant or voter. The small number of noncitizens actually found underscores the robust checks already in place.

Insights into claims of noncitizen registrants and voters

CEIR has sought to be as expansive as possible in this analysis. Public claims of noncitizen registrants and voters have been documented spanning back over a decade, including instances where possible noncitizens may have registered to vote, instances where bureaucratic errors evidently registered noncitizens who did not seek to register themselves, instances where possible noncitizens may have cast a ballot in an election, and instances of voter records with unconfirmed citizenship status. Allegations were also documented regardless of the methodology used to produce them. Therefore, the list includes both careful, measured statements and speculative, opaque assertions. While this compilation should not be treated as a comprehensive catalog, it is a significant attempt at providing a shared basis for understanding and analysis.

Several broad trends emerge from this analysis, though the details of each case vary too widely for direct comparison across states. Claims vary significantly with respect to their focus, the relevant time period, and even the level of evidence upon which allegations are based. In some cases, public reports appear to conflate multiple claims, modify details without explanation, or repeat debunked allegations without new evidence, further adding to the public's confusion and complicating any direct comparison across states or across time.

Analysis reveals that initial claims alleging large numbers of noncitizen registrants or voters are almost certain to be a misleading overestimation of the actual number of records with unconfirmed citizenship. Frequently, early claims point to gaps in publicly available data as evidence of improper registration, only for subsequent investigation by election officials or

other authorities to reveal that the data was outdated, incomplete, or improperly matched to other datasets. For example, if a new voter is registered shortly after their naturalization ceremony, other datasets may not yet reflect their updated citizenship status. Unfortunately, while large claims are often highly publicized, the smaller numbers identified in subsequent investigations and scrutiny rarely receive the same level of public attention.

Public discussion appears to be largely driven by high profile claims in a subset of states. Careful search identified no allegations of noncitizen registrants or voters in 11 states, even after expanding parameters to include relatively minor or unsubstantiated claims. As elsewhere, election officials in these states take steps to protect the integrity of their elections, but claims about noncitizen registrants or voters appear not to be a major part of public dialogue. As states continue to report findings from ongoing list maintenance or new investigations, they find very few credible cases of potential noncitizen registration or voting.

Finally, in the context of each state's voting-eligible population, claims about noncitizen registrations and voting allege vanishingly small numbers. Even the largest claims (which are the most likely to be severe overestimates) never allege numbers that are more than a few tenths of a percent of the number of eligible voters in the state. This indicates that existing safeguards are broadly effective, since even highly motivated efforts identify only a very small number of records for potential concern. Election officials and other authorities thoroughly investigate these concerns and move swiftly to address any evidence of improper registration or voting that may be found. These small numbers underscore the overall integrity of the underlying system.

To illustrate the broad strokes of these trends, two illustrative examples from the public record are provided below. Both examples are typical of national trends: routine investigation by state officials identified a very large proportion of flagged records were citizens and only a small number were noncitizens who registered to vote or had cast a ballot. These individuals were referred to proper authorities for further investigation. However, public discourse focused the large initial number of flagged records (later found to include many citizens), rather than the small numbers of noncitizens identified after thorough review.

Illustrative example: Iowa

The Iowa Secretary of State's office announced in October 2024 that it had identified 2,176 voter registration records that *potentially* belonged to noncitizens.¹ This initial, inflated allegation is only roughly one-tenth of one percent of active registered voters in Iowa at that time.²

In March 2025, the secretary of state's office revised down its initial claim of 2,176 potential noncitizens to 277 confirmed noncitizens (just one in eight records from the original allegation). This revision came after subsequent investigation of the flagged records using citizenship data from the Iowa Department of Transportation and additional checks with the USCIS SAVE tool. The revised claim equates to roughly one-hundredth of one percent of registered voters and includes 35 alleged noncitizens who cast ballots that were counted in 2024 general election. All of these individuals were referred to the state attorney general and the Iowa Department of Public Safety for further investigation.³

Illustrative example: Michigan

In April 2025, the Michigan Department of State released the results of a systemwide audit of the state's voter rolls.⁴ The audit, which began in December 2024, compared citizenship data in 7.9 million active driving records for Michiganders of voting age to 7.2 million active registered voters on the state's rolls. It identified 16 instances of individuals who appeared to be noncitizens and who had cast a ballot in the 2024 general election, including a widely reported instance of a Chinese national who had voted in the election. Following standard procedure, these individuals were referred to the state attorney general for potential criminal charges. Taken together, these 16 instances represent roughly 0.00028% of votes cast by Michiganders in the 2024 general election.

In short, while proper investigations do reveal instances of noncitizens who have registered to vote or cast a ballot, such instances are rare, detected by election officials, and prosecuted by the proper authorities.

State participation in the SAVE program

The Systematic Alien Verification for Entitlements (SAVE) program is an online service administered by U.S. Citizenship and Immigration Services (USCIS) within the Department of Homeland Security. SAVE is intended as a tool to allow registered federal, state, and local governments to verify citizenship and immigration status.⁵

Historically, government agencies have used SAVE to confirm applicants' eligibility for entitlement benefits, licenses, and other authorized purposes. In 2025, USCIS announced changes to SAVE to permit registered agencies to use SAVE for voter eligibility verification and waived previous fees.⁶ As of December 2025, USCIS reports an agreement with election offices in at least 22 states to use SAVE in this way.⁷ Additionally, CEIR's review has identified at least two additional states where reports indicate that SAVE has been used to compare voter data through agreements with the state's department of motor vehicles. However, election officials have expressed ongoing concerns about the reliability and security of using SAVE with voter registration data.⁸

As part of this update, CEIR has paid special attention to reports and claims from states using SAVE to identify potential noncitizens on voter lists. CEIR's review finds that only some states with a SAVE agreement have publicized the results of their searches, and that these publicized results typically follow the same patterns as other claims about noncitizen registration or voting. Subsequent investigations of claims based on SAVE information have revealed systemic gaps, errors, and other limitations. Initial claims about non-citizen registrations based on SAVE are frequently walked back after further review.⁹

To illustrate these trends, another example is provided from the public record:

Illustrative example: Texas

In October 2025, the Texas Secretary of State's office announced that it had used SAVE to identify 2,724 voter registration records that potentially belonged to noncitizens. This initial,

inflated allegation is only roughly one-hundredth of one percent of active registered voters in Texas.¹⁰

The secretary of state's office distributed the list of identified records to county election officials for further investigation. A series of reports from December 2025 indicate that a large percentage of flagged records belong either to confirmed citizens or individuals who were registered in error by government officials.¹¹ These include hundreds of individuals who showed proof of citizenship when registering at Texas's Department of Public Safety (DPS), individuals who responded to county notices to provide proof of citizenship, and individuals who marked themselves as noncitizens on official forms but were incorrectly registered anyway by government agencies.

As one example, in October 2025, officials in Denton County, Texas, received a list from the secretary of state's office of 84 records registered in the county flagged for further review by SAVE. County officials identified that 37 of these flagged voters had registered to vote at DPS, which requires prospective voters to show proof of citizenship in order to register. However, because DPS could not share this data directly with counties under state law, county officials attempted to independently confirm citizenship for all 84 flagged records provided by the state.¹²

By December, Denton County officials had found that 14 of the flagged records belonged to citizens who responded to a mail notice to confirm their status. Officials also found that another 14 flagged records belonged to self-identified noncitizens who had been mistakenly registered by government agencies in error, even though they had disclosed that they were noncitizens and ineligible to vote. The remaining 56 flagged records were canceled after county officials did not receive a response to their mail notice. However, local reports identified at least one citizen among these canceled records, who stated they had been unable to travel to county offices within the allotted time and did not want to risk sending sensitive proof of citizenship documents through the mail.¹³

While SAVE may have some value as an additional tool to identify records with unconfirmed citizenship, the system's limitations mean it should not be relied upon as the sole source for list maintenance. In fact, USCIS guidance advises that there are gaps in the data available to SAVE and instructs agencies to conduct additional review of any records flagged by the tool.¹⁴

To avoid inadvertently disenfranchising citizens, states should check SAVE data against all available other data sources with citizenship information before asking individuals to prove citizenship or removing registration records.

In addition, unaddressed concerns about the apparent lack of protections for voter data input into SAVE have given many states pause about the tool's security.¹⁵

Analysis methodology

CEIR conducted a rigorous search, analyzing government publications, news media, and other public sources in all fifty states to compile an expansive list of allegations of noncitizen registration and voting. This search has also documented the results of official investigations into

such allegations, as well as reports about the use of SAVE. Multiple members of the research team have conducted several rounds of detailed analysis since March 2025 to ensure that the information gathered is as accurate, complete, and timely as possible. The current pass focuses on claims made through December 31, 2025.

For each state, members of the research team used several different tools to identify allegations of noncitizen registration and voting, including official state websites and press releases, news aggregators, and internet search engines. Afterwards, a different member of the team independently reviewed each identified source to check understanding of the allegations and important details. This entire process was repeated at multiple points in time to check for any new allegations or updates to documented claims.

Parameters were intentionally kept broad, in order to compile as expansive a list of allegations as possible. Team members documented any claims or reports that appeared relevant, including any alleged instances of noncitizens registering to vote, any alleged instances of noncitizens casting a vote, and any instances where it appeared that the citizenship status of registration records could not be readily confirmed. Special attention was given to documenting claims alleging large numbers of possible noncitizen registrants or voters. These allegations were documented regardless of the methodology used to produce them, though methodologies were also documented to the extent that they were made public. Team members prioritized documenting claims made in the last decade, but earlier claims were documented when found.

After this detailed documentation, team members had in-depth discussions about each claim to identify remaining questions, reconcile different interpretations, and note any areas for further analysis. Additional discussions followed whenever new information or updates were added to the compilation.

Citations

¹ [WOWT](#) (Oct 2024); [CBS News](#) (Dec 2024); [Iowa Secretary of State](#) (Mar 2025)

² [Iowa Secretary of State](#) (Oct 2024)

³ [Iowa Secretary of State](#) (Mar 2025)

⁴ [Michigan Secretary of State](#) (Apr 2025); [NPR](#) (Jul 2025)

⁵ [USCIS](#) (Aug 2025)

⁶ [USCIS](#) (May 2025); [USCIS](#) (Nov 2025)

⁷ [USCIS](#) (undated)

⁸ [NPR](#) (Sep 2025); [StateScoop](#) (Dec 2025)

⁹ [New York Times](#) (Jan 2026); [WIRED](#) (Jan 2026)

¹⁰ Texas Secretary of State (Nov 2025)

¹¹ Votebeat (Dec 2025); NPR (Dec 2025); Votebeat (Dec 2025)

¹² Votebeat (Dec 2025)

¹³ NPR (Dec 2025)

¹⁴ USCIS (Aug 2025)

¹⁵ StateScoop (Dec 2025)

PRESS RELEASE
Monday, April 27, 2026
ncsbe.comms@ncsbe.gov
Jason Tyson, (984) 289-9542

State Board Identifies Deceased Individuals on Voter Rolls Through Federal Database Comparison

Raleigh, N.C. — The North Carolina State Board of Elections has identified approximately 34,000 deceased individuals on the state’s voter rolls following a comprehensive data comparison with the federal Systematic Alien Verification for Entitlements (SAVE) database.

On April 17, 2026, the State Board submitted 7,397,734 voter records to the SAVE system as part of its initiative to strengthen the accuracy and integrity of the state’s voter registration list.

The discovery comes as an added benefit of the State Board’s ongoing effort to verify the citizenship status of registered voters. The primary goal of comparing voter registration records with the SAVE database is to identify any non-U.S. citizens on the voter rolls and ensure that only eligible individuals are registered to vote in North Carolina, but we expect that this process will also help identify other anomalies such as duplicate registrations, name mismatches and, as highlighted here, deceased voters.

“While we expected to find some cases, this is higher than we anticipated,” said Sam Hayes, executive director of the State Board of Elections. “The benefit of entering into cross-state and federal database checks is that it allows us to uncover issues like this. Our goal is to use every available and legal tool at our disposal to achieve the most accurate voter rolls possible. Now, we must roll up our sleeves and begin the hard work to act of verifying that every person registered to vote in North Carolina is eligible. Our team, along with our state and federal will do what’s necessary to meet this responsibility.”

Election officials emphasize that list maintenance is a routine and necessary function to ensure compliance with state and federal law. The identification of deceased individuals on the voter rolls does not necessarily indicate that illegal votes were cast in their names, but it does underscore the importance of regular updates and strong interagency coordination.

The State Board will follow established procedures to verify records and will work with county boards of elections to remove deceased individuals from the voter rolls in accordance with state and federal law. These processes include cross-checking additional state and federal databases and providing due process before any removal occurs.

The comparison criteria for a SAVE database search uses voters’ names, dates of birth, and the last four digits of Social Security numbers sent to the U.S. Citizenship and Immigration Services (USCIS), who then perform a cross check with the Social Security Administration.

For voters who have passed away in North Carolina, the State Board receives information from the N.C. Department of Health and Human Services, a process that occurs weekly and is handled at the county level. This new process of matching state voter records with the SAVE database where the result shows a person is deceased in federal records will help identify those voters who registered here at one time and then moved and passed away in another state.

For more information, including frequently asked questions regarding the use of the SAVE Database for Verification of U.S. Citizenship, please visit <https://www.ncsbe.gov/about-elections/maintaining-accurate-voter-rolls>.

About the North Carolina State Board of Elections

The North Carolina State Board of Elections oversees the administration of elections and the campaign finance disclosure system for North Carolina. The agency works to ensure fair and secure elections, provides guidance and oversight to county boards of elections, enforces election laws, and promotes public confidence in the integrity of the state's voting process. For more information, visit www.ncsbe.gov.

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NC State Board of Elections
North Carolina State Board of Elections (NCSBOE)

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North Carolina State Board of Elections (NCSBOE)

§ 150B-19.1. Requirements for agencies in the rulemaking process.

(a) In developing and drafting rules for adoption in accordance with this Article, agencies shall adhere to the following principles:

- (1) An agency may adopt only rules that are expressly authorized by federal or State law and that are necessary to serve the public interest.
- (2) An agency shall seek to reduce the burden upon those persons or entities who must comply with the rule.
- (3) Rules shall be written in a clear and unambiguous manner and must be reasonably necessary to implement or interpret federal or State law.
- (4) An agency shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed. The agency shall not adopt a rule that is unnecessary or redundant.
- (5) When appropriate, rules shall be based on sound, reasonably available scientific, technical, economic, and other relevant information. Agencies shall include a reference to this information in the notice of text required by G.S. 150B-21.2(c).
- (6) Rules shall be designed to achieve the regulatory objective in a cost-effective and timely manner.

(b) Each agency subject to this Article shall conduct an annual review of its rules to identify existing rules that are unnecessary, unduly burdensome, or inconsistent with the principles set forth in subsection (a) of this section. The agency shall repeal any rule identified by this review.

(c) Each agency subject to this Article shall post on its website, no later than the publication date of the notice of text in the North Carolina Register, all of the following:

- (1) The text of a proposed rule.
- (2) An explanation of the proposed rule and the reason for the proposed rule.
- (3) The federal certification required by subsection (g) of this section.
- (4) Instructions on how and where to submit oral or written comments on the proposed rule, including a description of the procedure by which a person can object to a proposed rule and subject the proposed rule to legislative review.
- (5) Any fiscal note that has been prepared for the proposed rule.

If an agency proposes any change to a rule or fiscal note prior to the date it proposes to adopt a rule, the agency shall publish the proposed change on its website as soon as practicable after the change is drafted. If an agency's staff proposes any such change to be presented to the rulemaking agency, the staff shall publish the proposed change on the agency's website as soon as practicable after the change is drafted.

(d) Each agency shall determine whether its policies and programs overlap with the policies and programs of another agency. In the event two or more agencies' policies and programs overlap, the agencies shall coordinate the rules adopted by each agency to avoid unnecessary, unduly burdensome, or inconsistent rules.

(e) Each agency shall quantify the costs and benefits to all parties of a proposed rule to the greatest extent possible. Prior to submission of a proposed rule for publication in accordance with G.S. 150B-21.2, the agency shall review the details of any fiscal note prepared in connection with the proposed rule and approve the fiscal note before submission.

(f) If the agency determines that a proposed rule will have a substantial economic impact as defined in G.S. 150B-21.4(b1), the agency shall consider at least two alternatives to the proposed rule. The alternatives may have been identified by the agency or by members of the public.

(g) Whenever an agency proposes a rule that is purported to implement a federal law, or required by or necessary for compliance with federal law, or on which the receipt of federal funds is conditioned, the agency shall:

- (1) Prepare a certification identifying the federal law requiring adoption of the proposed rule. The certification shall contain a statement setting forth the reasons why the proposed rule is required by federal law. If all or part of the proposed rule is not required by federal law or exceeds the requirements of federal law, then the certification shall state the reasons for that opinion.

(2) Post the certification on the agency website in accordance with subsection (c) of this section.

(3) Maintain a copy of the federal law and provide to the Office of State Budget and Management the citation to the federal law requiring or pertaining to the proposed rule.

(h) Repealed by Session Laws 2014-120, s. 6(a), effective September 18, 2014, and applicable to proposed rules published on or after that date. (2011-398, s. 2; 2012-187, s. 3; 2013-143, s. 1.1; 2014-120, s. 6(a); 2025-25, s. 29(5), (6).)

§ 150B-21.2. Procedure for adopting a permanent rule.

(a) Steps. - Before an agency adopts a permanent rule, the agency must comply with the requirements of G.S. 150B-19.1, and it must take the following actions:

- (1) Publish a notice of text in the North Carolina Register.
- (2) When required by G.S. 150B-21.4, prepare or obtain a fiscal note for the proposed rule.
- (3) Repealed by Session Laws 2003-229, s. 4, effective July 1, 2003.
- (4) When required by subsection (e) of this section, hold a public hearing on the proposed rule after publication of the proposed text of the rule.
- (5) Accept oral or written comments on the proposed rule as required by subsection (f) of this section.

(b) Repealed by Session Laws 2003-229, s. 4, effective July 1, 2003.

(c) Notice of Text. - A notice of the proposed text of a rule must include all of the following:

- (1) The text of the proposed rule, unless the rule is a readoption without substantive changes to the existing rule proposed in accordance with G.S. 150B-21.3A.
- (2) A short explanation of the reason for the proposed rule.
- (2a) A link to the agency's website containing the information required by G.S. 150B-19.1(c).
- (3) A citation to the law that gives the agency the authority to adopt the rule.
- (4) The proposed effective date of the rule.
- (5) The date, time, and place of any public hearing scheduled on the rule.
- (6) Instructions on how a person may demand a public hearing on a proposed rule if the notice does not schedule a public hearing on the proposed rule and subsection (e) of this section requires the agency to hold a public hearing on the proposed rule when requested to do so.
- (7) The (i) period of time during which and (ii) person within the agency to whom written comments may be submitted on the proposed rule.
- (8) If a fiscal note has been prepared for the rule, a statement that a copy of the fiscal note can be obtained from the agency.
- (9) Repealed by Session Laws 2013-143, s. 1, effective June 19, 2013.

(d) Mailing List. - An agency must maintain a mailing list of persons that have requested notice of rulemaking. When an agency publishes in the North Carolina Register a notice of text of a proposed rule, it must mail a copy of the notice of text to each person on the mailing list that has requested notice on the subject matter described in the notice or the rule affected. An agency may charge an annual fee to each person on the agency's mailing list to cover copying and mailing costs.

(e) Hearing. - An agency must hold a public hearing on a rule it proposes to adopt if the agency publishes the text of the proposed rule in the North Carolina Register and the agency receives a written request for a public hearing on the proposed rule within 15 days after the notice of text is published. The agency must accept comments at the public hearing on both the proposed rule and any fiscal note that has been prepared in connection with the proposed rule.

An agency may hold a public hearing on a proposed rule and fiscal note in other circumstances. When an agency is required to hold a public hearing on a proposed rule or decides to hold a public hearing on a proposed rule when it is not required to do so, the agency must publish in the North Carolina Register a notice of the date, time, and place of the public hearing. The hearing date of a public hearing held after the agency publishes notice of the hearing in the North Carolina Register must be at least 15 but not later than 60 days after the date the notice is published. If notice of a public hearing has been published in the North Carolina Register and that public hearing has been cancelled, the agency must publish notice in the North Carolina Register at least 15 days prior to the date of any rescheduled hearing.

(f) Comments. - An agency must accept comments on the text of a proposed rule that is published in the North Carolina Register and any fiscal note that has been prepared in connection with the proposed rule for at least 60 days after the text is published or until the date of any public hearing held on the proposed rule, whichever is longer. An agency must consider fully all written and oral comments received.

(g) Adoption. - An agency shall not adopt a rule until the time for commenting on the proposed text of the rule has elapsed and shall not adopt a rule if more than 12 months have elapsed since the end of the time for

PRESS RELEASE

February 25, 2026

ncsbe.comms@ncsbe.gov

Jason Tyson, (984) 289-9542

Elections Director Sam Hayes announces vendor to modernize SEIMS system

Raleigh, N.C. — North Carolina State Board of Elections Executive Director Sam Hayes announced today that the agency has selected ReFrame Solutions as the winning vendor to modernize the State Elections Information Management System (SEIMS).

The SEIMS modernization effort will enhance the current system's functionality and security while bridging the gap until a full system replacement can begin within the next two years.

"After a rigorous and highly competitive selection process, I am proud of the work our procurement team put into identifying the best partner to help modernize our aging legacy election management system," said Director Hayes. **"Their diligence and technical expertise ensured a fair and comprehensive evaluation. ReFrame Solutions stood out for its innovative approach and commitment to security, usability, and transparency, and we are confident this modernization effort will strengthen election administration across North Carolina."**

The large-scale replacement of the system, the biggest overhaul of election data management in N.C. history, will be handled by a separate bidding and proposal process. The vendor selection and project scope for that phase are expected to be completed later this year.

The upgraded system is expected to deliver enhanced security features aligned with state and federal best practices, improved usability for State Board personnel and North Carolina's 100 county boards of elections, greater transparency and public access to election data, and modernized workflows that comply with state law and support efficient election administration.

The recommended vendor was selected following a comprehensive procurement process that included a detailed scoring system and interviews with competing vendors. The evaluation process was thorough and highly technical, with two finalists demonstrating strong qualifications and competitive proposals.

ReFrame Solutions' bid totaled \$4.66 million.

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About the North Carolina State Board of Elections

The North Carolina State Board of Elections oversees the administration of the election process and campaign finance disclosure system for North Carolina. The agency works to ensure fair and secure elections, provide guidance and oversight to county boards of elections, enforce election laws, and promote public confidence in the integrity of the state's voting process. For more information, visit [ncsbe.gov](https://www.ncsbe.gov).

The two - 2026 ACCREDITED TESTING LABS

Pro V&V

6705 Odyssey Dr NW Suite C

Status: Accredited

Program Manager: Jack Cobb, Laboratory Director

Phone: 256-713-1111

CURRENT CERTIFICATE Dated 4/1/25 READS:

Original Accreditation Issued on: 2/24/15

Accreditation remains effective until revoked by a vote of the EAC pursuant to 52 U.S.C. § 20971(c)(2).

PRO V&V, INC., Huntsville, Alabama is recognized by the U.S. Election Assistance Commission for the testing of voting systems to the Voluntary Voting Systems Guidelines VVSG 1.0, 1.1 & 2.0 under the criteria set forth in the EAC Voting System Testing and Certification Program and Laboratory Accreditation Program. Pro V&V is also recognized as having successfully completed assessments by the National Voluntary Laboratory Accreditation Program for conformance to the requirements of ISO/IEC 17025 and the criteria set forth in NIST Handbooks 150 and 150-22.

Signed 4/1/2025 by Brianna Schletz, Executive Director of U.S. Election Assistance Commission EAC Lab Code 1501



United States Election Assistance Commission

Certificate of Accreditation

**Pro V&V, Inc.
Huntsville, Alabama**

is recognized by the U.S. Election Assistance Commission for the testing of voting system Voluntary Voting Systems Guidelines VVSG 1.0, 1.1 & 2.0 under the criteria set forth in Voting System Testing and Certification Program and Laboratory Accreditation Program. Pro V&V is also recognized as having successfully completed assessments by the National Voluntary Laboratory Accreditation Program for conformance to the requirements of ISO/IEC 17025 and the criteria set forth in NIST Handbooks 150 and 150-22.

A handwritten signature in black ink, appearing to be "BS" or similar initials.

SLI Compliance, a Division of Gaming Laboratories International, LLC

Status: Accredited

Program Manager: Traci Mapps, Vice President

Phone: 303-422-1566

CURRENT CERTIFICATE Dated 2/24/25 READS:

Original Accreditation Issued on: 2/28/2007

Accreditation remains effective until revoked by a vote of the EAC pursuant to 52 U.S.C. § 20971(c)(2).

Brianna Schletz Executive Director, U.S. Election Assistance Commission EAC Lab Code: 0701 is recognized by the U.S. Election Assistance Commission for the testing of voting systems to the Voluntary Voting Systems Guidelines VVSG 1.0, 1.1 & 2.0 under the criteria set forth in the EAC Voting System Testing and Certification Program and Laboratory Accreditation Program.

SLI Compliance is also recognized as having successfully completed assessments by the National Voluntary Laboratory Accreditation Program for conformance to the requirements of ISO/IEC 17025 and the criteria set forth in NIST Handbooks 150 and 150-22.



United States Election Assistance Commission

Certificate of Accreditation

SLI Compliance
Division of Gaming Laboratories International, LLC
Wheat Ridge, Colorado

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A handwritten signature in black ink, appearing to be "RS", is written over the bottom right of the certificate text.

Below is information on the company who bought out Gaming Labs International, LLC who also owned the SLI company, the company that serviced and upgraded the current machines. CVC, who bought them out is no longer going to be updating and upgrading

the voting machines by 2028. A changeover and a changeover period long enough to accomplish it had to be done.

Below is the information about the company who bought out SLI.

CVC Capital Partners

Bought out Gaming Labs International in July 2025

Gaming Labs International LLC also had SLI Compliance who was last certified and accredited to manage VOTING ELECTION MACHINES on February 24th, 2025 Refer to Acronis bel

When Was CVC Capital Partners Founded?

CVC Capital Partners was founded in 1981 as Citicorp Venture Capital. Following its management buyout in 1993, it became an independent private equity firm. Over the decades, CVC has grown into a global powerhouse with investments spanning continents and industries.

List of Companies Owned by CVC Capital Partners

Some of the prominent companies owned by CVC Capital Partners:

Petco

CVC Capital Partners holds a stake in Petco, a leading pet retailer in the United States.

Stock Spirits Group

Stock Spirits Group, established in 1884 in Trieste, Italy, is one of Europe's largest alcohol beverage companies. The company offers a portfolio of over 70 brands, including Żołądkowa Gorzka, Lubelska, Božkov, Stock 84, Limoncè, Keglevich, 1906, Stock Prestige, and Grappa Distillerie Franciacorta.

Formula 1

CVC previously owned a controlling stake in Formula 1, the premier global motorsport series. Although it sold most of its stake in 2016, this investment marked a high-profile chapter in CVC's history.

Alvogen

Alvogen is a US-based pharmaceutical company founded in 2009, specializing in difficult-to-make generic drugs and injectables. The company operates in 35 countries and employs approximately 2,800 people.

Alvogen's product portfolio includes a range of pharmaceuticals, focusing on injectables under its Almaject division. CVC Capital Partners and Temasek Holdings acquired a controlling stake in Alvogen in 2015, supporting its growth in the global pharmaceutical market.

Sisal Group

An Italian gaming and payment services provider, Sisal Group is a key investment in CVC's portfolio. The company operates in lottery management, online gaming, and financial services.

System C Healthcare

System C Healthcare is a British supplier of health information technology systems and services, primarily serving National Health Service (NHS) organizations in the UK.

The company provides software solutions for electronic patient records, patient administration, and social care management. **In 2021, CVC Capital Partners acquired System C from Symphony Technology Group, aiming to enhance healthcare IT solutions in the UK.**

Since the acquisition, System C has expanded by acquiring WellSky International in 2021, Clevermed in 2023, and Oxford Computer Consultants in 2023.

PDC Energy

CVC has invested in PDC Energy, a leading oil and gas exploration company. This partnership supports sustainable energy initiatives and operational efficiency. Through this investment, CVC aims to foster innovation in energy production and ensure adherence to environmental, social, and governance (ESG) standards, while also delivering strong financial returns.

A Bathing Ape (BAPE)

A Bathing Ape, commonly known as BAPE, is a **Japanese fashion brand founded in 1993**, renowned for its streetwear clothing, accessories, and footwear. The brand has a significant influence on global street fashion and operates stores worldwide. CVC Capital Partners acquired a majority stake in BAPE, aiming to expand its international presence and capitalize on the growing demand for streetwear fashion.

Anchor Glass

Anchor Glass is a US-based manufacturer of glass containers for the beverage and food industries. The company operates six manufacturing facilities and serves major brands in the industry. CVC Capital Partners acquired Anchor Glass to enhance its manufacturing capabilities and expand its presence in the packaging industry.

Douglas

Douglas, Europe's leading premium **beauty retailer**, is another noteworthy investment. The company operates in over 20 countries, offering an extensive range of beauty and skincare products.

Aleph

Aleph is a leading global enabler of digital advertising in emerging countries, connecting advertisers with consumers in underserved markets. The company partners with major digital platforms to provide advertising solutions across various regions.

Sunrise Communications

CVC has invested in Sunrise Communications, a Swiss telecommunications provider known for its innovation in mobile and broadband services.

RAC

CVC owns a significant stake in RAC, the **UK-based roadside assistance and insurance company**. RAC's strong market presence and customer service focus align with CVC's investment strategy.

Ahlsell is a **Swedish distributor of installation products, tools, and supplies, serving professionals in the construction, installation, and industrial sectors**. The company operates in Sweden, Norway, Finland, Denmark, and Estonia.

Samsonite

CVC has a history with Samsonite, a global leader in travel luggage. This investment reflects its interest in consumer goods and brand-building potential.

During its ownership, CVC supported Samsonite's expansion into emerging markets and helped launch innovative products to meet the evolving needs of modern travelers.

Acronis

Acronis is a global technology company specializing in **cyber protection solutions, including backup, disaster recovery, and secure file access**. Founded in 2003, Acronis serves over 5.5 million consumers and 500,000 businesses worldwide. CVC Capital Partners invested in Acronis to support its growth in the cybersecurity market and enhance its product offerings.

Breitling

Breitling is a Swiss luxury watchmaker established in 1884, known for its precision-made chronometers designed for aviators. The brand offers a range of high-end timepieces and has a strong global presence.

Aleatica

CVC owns Aleatica, a global leader in **toll road infrastructure**. The investment reflects a strategic focus on transportation and infrastructure development.

Authentic Brands Group

Authentic Brands Group (ABG) is a brand development, marketing, and entertainment company that **owns a portfolio of global media, entertainment, and lifestyle brands**. Its holdings include renowned names such as Marilyn Monroe, Elvis Presley, and Sports Illustrated.

Rule 23.0102
Objection Packet
w/ exhibits (7)

1 08 NCAC 23 .0102 is adopted with changes as published in 40:14 NCR 1196 as follows:

2
3 **08 NCAC 23 .0102 ENTRY OF CHALLENGE**

4
5 (a) No later than five business days after receiving a notice of non-citizenship from the State Board of Elections,
6 county board staff shall review the county board's records to determine if the ~~presumptive potential~~ noncitizen has
7 previously provided documentation of citizenship. If county board staff cannot locate information or documents in
8 the county board's records demonstrating that the potential noncitizen has provided documentation of citizenship.
9 ~~citizenship for the presumptive noncitizen in the county board's records~~, then the director of elections for the county
10 board receiving the notice or their designee on the county board staff shall enter a challenge to the ~~presumptive~~
11 potential noncitizen's eligibility to remain registered to vote under G.S. 163-85(c)(7). The challenge shall be entered
12 by filing at the county board office a form provided by the State Board, which shall include the following:

- 13 (1) the physical address, mailing address, telephone number, and email address for the county board;
- 14 (2) the printed name and signature of the official entering the challenge;
- 15 (3) the date the challenge is entered;
- 16 (4) the challenged voter's name and current residential address contained in their registration record;
- 17 and
- 18 (5) the following statement: "The voter's eligibility to remain registered to vote in North Carolina is
19 being challenged because the county board of elections has been notified by the State Board of
20 Elections that information available from official government records or databases indicates that
21 the voter is not a U.S. ~~citizen.~~ citizen, and a review of information and documents in the county
22 board's records does not show that the voter has provided documentation of citizenship."

23 (b) Within three business days of the challenge being entered, the county board shall set a date for the preliminary
24 hearing in accordance with Rule .0103(a) of this Section and send notice of the challenge to the challenged voter
25 along with the date, time, and location of the preliminary hearing. The notice of the challenge shall be in writing and
26 sent by U.S. mail using a method of delivery that documents receipt. The notice shall also be provided by email
27 using any email address that the county board possesses for the challenged voter. The following shall be included
28 with the notice of the challenge:

- 29 (1) a copy of the entered challenge;
- 30 (2) the information contained within the notice of non-citizenship;
- 31 (3) information about the qualifications to vote in North Carolina;
- 32 (4) a copy of the rules in this Section;
- 33 (5) instructions for how the challenged voter may respond to the challenge, which shall include
34 examples of documentation of citizenship or information the challenged voter may submit for the
35 county board's consideration, how the challenged voter can submit such documentation or
36 ~~information.~~ information before or at the preliminary hearing, and how to voluntarily cancel their
37 registration should they desire to do so; and

1 (6) the following statement: “If the information we have that you are not a U.S. citizen is incorrect or
2 outdated, please contact the county board of elections to provide proof of citizenship, so that we
3 can update our records. If you are a U.S. citizen and meet all other qualifications to vote, then you
4 can remain registered and vote.”

5

6 *History Note:* *Authority G.S. 163-22; 163-82.14; 163-82.26; 163-85;*

7 *Eff. ~~May~~ June 1, 2026.*

DRAFT

Violation of the Administrative Procedures Act § 150(B)-19.1(a)(5) reads:

“When appropriate, rules shall be based on sound, reasonably available scientific, technical, economic, and other relevant information. Agencies shall include a reference to this information in the notice of text required by G.S.150(B)-21.2(c).”

Objection: Since the “list” of names will go to the County Board from the State Board AFTER it has been run through the Systematic Alien Verification Entitlement (SAVE) program, the voters of North Carolina should be told if the SAVE program machines were Accredited and Certified by testing labs as required by the Election Assistance Commission and as was previously completed when used in the North Carolina State Elections Information Management System (SEIMS). The Election Assistance Commission is specified in the Help America Voting Act (HAVA) to have such testing administered. Although the testing was ordered also in the March 25, 2025 Executive Order of President Trump to be accomplished within 180 days of the Order (which is still being contested as to the legality of the order in courts), there has been no such Press Release stating that the testing has occurred, nor by what companies. Transparency on this matter should be prioritized.

This rule was scrutinized in November 2025, following approximately 14,000 (a rounded figure) Public Comments many of which contested the number of false-positives previously reported and questioned whether the SAVE program that was to be implemented was “safe.” Many comments questioned if the private data of a registered voters would be protected,

Other questions revolved around whether the Federal Government was legally entitled to have the access. There are many ongoing lawsuits pending on that specific issue between the Department of Justice and several states. It seemed Director Hayes did not challenge the legality of the DOJ’s lawsuit before agreeing to a Memorandum of Agreement/Understanding leaving those initially questioning the decision, still without answers and wondering why Director Hayes did not wait out the decisions of the courts as they worked their way through the system with at least 4 currently pending court cases on the matter. The money involved in contesting the suit of the DOJ, seems trivial to the expense of changing over the systems with consults, and expenditures to comply with what could be an illegal act of contorting HAVA into changes being made to the SAVE program and not the SAVE program aiding HAVA as it reads.

The comments in November should have triggered a substantive review due to the SAVE program results having an effect on persons who are legally registered and therefore **not** being the target of non-citizenship in the SAVE system, yet those who are citizens (based on previous list results from the SAVE program and the research on those lists) are returned on that list as potential non-citizens, and are subjected to having to prove (again) that they are citizens.

Another issue is that flagging a citizen as a potential non-citizen could become costly. If for instance, the citizen proved previously that they were by presenting a Passport and now that Passport is expired, they must apply to get a new one which in itself could cause a delay due to not having the ability to financially afford it, or the delay could result in not being counted in the election, even if a provisional ballot was recorded. This does NOT make access to the right to vote in an election easy.

The registered voters who will find themselves targeted by the return in the false-positives data from the SAVE program and subsequently put in positions of having to prove (again) that they are citizens. That is not something that a legitimately registered voter could reasonably expect to occur.

Though this is not the intent of this rule at issue, the system's data results that end up at the County Board level certainly is, which directly effects this rule's intent.

SCREEN SHOT:



[Registering](#) ∨ [Voting](#) ∨ [For Car](#)

[Home](#) > [About Elections](#) > [Election Security](#) > [10 Facts About Election Security in North Carolina](#)

10 Facts About Election Security in North Carolina

--- END OF SCREEN SHOT ---

Again, as per the screen shot above, the North Carolina state system was working; and the evaluations of any reputable statistician will show that Federal election results are not affected at all by non-citizen voting. What then is the basis for allowing the voter data into a system that is appealing and ripe for breaching such as the SAVE program? Not only is there a concern for domestic data mining, but also for foreign assets. Why is North Carolina so anxious to give their state voter data up to potential breaches?

At the time of the signing of the Memorandum of Understanding/Agreement, the information was readily available about the numerous false-positives being returned to various states by the SAVE program. The embarrassingly high number of potential non-citizens, when "investigated" by the various states County Boards, went from upwards of 20,000 in many cases, down to under 100 in the entire state once researched.

The MAJORITY of those under 100 remaining (number after reconciling the original number given by the SAVE program) were errors by that state's Department of Motor Vehicle who inadvertently registered a person in error (and who had never voted, or by

that state's County Board – also inadvertent. Others were recorded in error by an Agency and were not due to applications filled out by the alleged non-citizen. When contacted those persons were never aware they had a voter registration (and had never been recorded as voting - like the reported dead persons in North Carolina's returns). Some of the persons remaining were voting for over 50 years and long before the current "proof" was required. They had been "grandfathered" in.

That leads to wondering if North Carolina's voting system was never penetrated by a cyber attack (refer to the above screen shot), and there was no voting count that would have changed any Federal election called, why are the people of North Carolina having their data exposed to a Federal system that increases the potential of their data being hacked. Federal systems are centralized hubs that scream out to be hacked with all the enticement of a bear to a honey bee hive. It's irresistible to those who seek to get financial reward, or nefarious acts by foreign operators. The hackers will be both foreign and domestic. North Carolina voters will be put at risk when it is foreseeable that this could put them at risk.

Violation Of Administrative Procedures Act § 150(B)-19.1 (a)(1) which states:

that "An agency may adopt only rules that are expressly authorized by federal or State law and that are **necessary to serve public interest.**"

Objection: Since placing voter data into the SAVE program has not been shown to serve any Public Interest -as it has not been shown to produce any amount of voter fraud that could/would affect any Federal election result, nor, per the **screen shot above**, has there been a reason to enter data into machines outside of those self-contained in North Carolina which were Accredited and Certified through the Election Assistance Commission - then it would be in violation of the **Administrative Procedures Act § 150(B)-19.1 (a)(1)**.

Violation of Administrative Procedures Act § 150(B)-19.1(a)(2) which states:

"An agency **shall** seek to **reduce the burden** upon those persons or entities who must comply with the rule."

Objection: This rule does not reduce the burden on those who must comply. Instead, it specifically enhances the burden by forcing them to prove that they need to pay out of pocket for documents that could cost them the equivalent of an entire week of pay, or more if they have to miss days of work to comply with acquiring documentation.

Further, rule 08 NCAC 23 .0102(a) **(Line 7-11)** reads:

"If county board staff cannot locate information or documents in the county board's records demonstrating that the potential noncitizen has provided documentation of citizenship, ~~citizenship for the presumptive noncitizen in the county board's records~~, then the director of elections for the county board receiving the notice or their

designee on the county board staff **shall** enter a challenge to the potential noncitizen's eligibility to remain registered to vote under G.S. 163-85.(c)(7).” Any return to the State Board that was “unable to locate” without a substantial reason for not being able to locate (which clearly could be an inability to PROCESS due to time constraints, short-staffing, or other reasons) could force the person whose documents have not yet had the opportunity to be searched for (processed), into a challenge simply because the County Board was unable to PROCESS the information properly and had no option to describe that situation to the State Board. It would certainly not be a failure to locate the information.

The processing TIME of 5 business days should have exception and allow for a request for extension when justifiably necessary. If a request from the County Board for more time was able to be submitted, it would allow the County Board staff to be able to manage any high volume of voters, or voter registrants, staff shortages, or other justifiable reasons during that extension period. The County Board would then be able to properly LOCATE and validate, or invalidate non-citizens properly sending accurate notices of non-citizenship. Such a provision **exists for the State Board** of Elections in G.S.§ 163-86.(a).

Considering the high return of false-positives that could be generated from the data systems that will now be forthcoming, this should be a consideration in order to give the County Board time, if needed, to properly locate the records of each potential non-citizen before having to enter a challenge that may be mistaken.

Direct Conflict with NC G.S. § 163-85.(d) -- Setting Preliminary Hearing

NC G.S. § 163-85.(d) reads:

“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.”

08 NCAC 23 .0102(b)(5) reads:

“Instructions for how the challenged voter may respond to the challenge, which shall include examples of documentation of citizenship or information the challenged voter may submit for the county board’s consideration, how the challenged voter can submit such documentation or ~~information~~ information before or at the preliminary hearing, and how to voluntarily cancel their registration should they desire to do so; and...(6)”

Objection: This rule 08 NCAC 23 .0102(b)(5) further shifts the burden of proof from the challenger, to the challenged voter in direct conflict with NC G.S. § 163-85.(d) as read above.

Violation of Administrative Procedures Act § 150(B)-19.1(a)(3) – states:

“Rules shall be written in a clear and unambiguous manner and must be reasonable necessary to implement of interpret federal or State law..

Objection: 08 NCAC 23 .0102 (a)(5) (line 19) Again refers to “official government records or databases” without definition, or clarity is too ambiguous. It leaves a wide opening of interpretation as to whether the reporting returned from those “official...databases” is, or even can be, accurate. With the number of returns that are false-positives, it’s important to define exactly which government records, and which databases, both on State and Federal levels, will be responsible in the event of failures and inaccuracies for accountability purposes.

PROCEDURAL ERROR [on the part of **the entirety of the .0102 rule**]

Objection: 08 NCAC 23 .0102 (The entire rule) There is no process in place to challenges submitted directly to the County Board if those challenges or challengers appear suspicious, or biased. Nor is there any guidance on the ability to report anything suspicious back to the State Board.

There also is no check in place that would prevent a candidate from engaging the County Board of Elections in a partisan political action to try and gain an advantage. Potentially, the County Board could be presented with a situation where more time was necessary to process, or a notification to the State Board would be necessitated – either for more processing time, or to inform them of a delay, or to request an inquiry into this (or any other) unusual request exemplified in the hypothetical below.

A hypothetical-- A candidate who is behind in a tight polling, goes through a list of voter names and pulls specific names that LOOK like they could be potential non-citizens. The candidate then places those names onto their own list. The candidate then sends this list of names as challenges with a staff person (in an attempt to avoid suspicion) to submit to the County Board for validation a day or two prior to election day. The Board, not recognizing the staff member, but is suspicious about the list of names has no guidance on how to handle the situation related to the notification to the State Board that any of their requests may be delayed, but the inability to articulate to State Board members exactly why this is suspicious, biased or partisan. There is no **remedy, or procedure** in place for the County to respond, or to make requests of the State Board (in either situation) for more processing time, or to inform them of a delay, or to request an inquiry into this (or any other) unusual request.

- c. A transcript of a public hearing.
- d. A conference, workshop, or course.
- e. Data processing services.
- (6) Allows the agency to waive or modify a requirement set in a rule unless a rule establishes specific guidelines the agency must follow in determining whether to waive or modify the requirement.
- (7) Repealed by Session Laws 2011-398, s. 61.2, effective July 25, 2011.

§ 150B-19.1. Requirements for agencies in the rule-making process.

(a) In developing and drafting rules for adoption in accordance with this Article, agencies shall adhere to the following principles:

- (1) An agency may adopt only rules that are expressly authorized by federal or State law and that are necessary to serve the public interest.
- (2) An agency shall seek to reduce the burden upon those persons or entities who must comply with the rule.
- (3) Rules shall be written in a clear and unambiguous manner and must be reasonably necessary to implement or interpret federal or State law.
- (4) An agency shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed. The agency shall not adopt a rule that is unnecessary or redundant.
- (5) When appropriate, rules shall be based on sound, reasonably available scientific, technical, economic, and other relevant information. Agencies shall include a reference to this information in the notice of text required by G.S. 150B-21.2(c).
- (6) Rules shall be designed to achieve the regulatory objective in a cost-effective and timely manner.

(b) Each agency subject to this Article shall conduct an annual review of its rules to identify existing rules that are unnecessary, unduly burdensome, or inconsistent with the principles set forth in subsection (a) of this section. The agency shall repeal any rule identified by this review.

(c) Each agency subject to this Article shall post on its Web site, no later than the publication date of the notice of text in the North Carolina Register, all of the following:

- (1) The text of a proposed rule.
- (2) An explanation of the proposed rule and the reason for the proposed rule.
- (3) The federal certification required by subsection (g) of this section.
- (4) Instructions on how and where to submit oral or written comments on the proposed rule, including a description of the procedure by which a person can object to a proposed rule and subject the proposed rule to legislative review.
- (5) Any fiscal note that has been prepared for the proposed rule.

If an agency proposes any change to a rule or fiscal note prior to the date it proposes to adopt a rule, the agency shall publish the proposed change on its Web site as soon as practicable after the change is drafted. If an agency's staff proposes any such change to be presented to the rule-making agency, the staff shall publish the proposed change on the agency's Web site as soon as practicable after the change is drafted.

(d) Each agency shall determine whether its policies and programs overlap with the policies and programs of another agency. In the event two or more agencies' policies and programs overlap, the agencies shall coordinate the rules adopted by each agency to avoid unnecessary, unduly burdensome, or inconsistent rules.

(e) Each agency shall quantify the costs and benefits to all parties of a proposed rule to the greatest extent possible. Prior to submission of a proposed rule for publication in accordance with G.S. 150B-21.2, the agency shall review the details of any fiscal note prepared in connection with the proposed rule and approve the fiscal note before submission.

(f) If the agency determines that a proposed rule will have a substantial economic impact as defined in G.S. 150B-21.4(b1), the agency shall consider at least two alternatives to the proposed rule. The alternatives may have been identified by the agency or by members of the public.

(g) Whenever an agency proposes a rule that is purported to implement a federal law, or required by or necessary for compliance with federal law, or on which the receipt of federal funds is conditioned, the agency shall:

- (1) Prepare a certification identifying the federal law requiring adoption of the proposed rule. The certification shall contain a statement setting forth the reasons why the proposed rule is required by federal law. If all or part of the proposed rule is not required by federal law or exceeds the requirements of federal law, then the certification shall state the reasons for that opinion.
- (2) Post the certification on the agency Web site in accordance with subsection (c) of this section.
- (3) Maintain a copy of the federal law and provide to the Office of State Budget and Management the citation to the federal law requiring or pertaining to the proposed rule.

(h) Repealed by Session Laws 2014-120, s. 6(a), effective September 18, 2014, and applicable to proposed rules published on or after that date.

§ 150B-19.2: Repealed by Session Laws 2013-413, s. 3(c).

§ 150B-19.3. Limitation on certain environmental rules.

(a) An agency authorized to implement and enforce State and federal environmental laws may not adopt a rule for the protection of the environment or natural resources that imposes a more restrictive standard, limitation, or requirement than those imposed by federal law or rule, if a federal law or rule pertaining to the same subject matter has been adopted, unless adoption of the rule is required by one of the subdivisions of this subsection. A rule required by one of the following subdivisions of this subsection shall be subject to the provisions of G.S. 150B-21.3(b1) as if the rule received written objections from 10 or more persons under G.S. 150B-21.3(b2):

- (1) A serious and unforeseen threat to the public health, safety, or welfare.
- (2) An act of the General Assembly or United States Congress that expressly requires the agency to adopt rules.
- (3) A change in federal or State budgetary policy.

statement meets the criteria, the Codifier of Rules must notify the head of the agency and enter the rule in the North Carolina Administrative Code on the sixth business day following approval by the Codifier of Rules.

If the Codifier of Rules finds that the statement does not meet the criteria in subsection (a) of this section, the Codifier of Rules must immediately notify the head of the agency. The agency may supplement its statement of need with additional findings or submit a new statement. If the agency provides additional findings or submits a new statement, the Codifier of Rules must review the additional findings or new statement within one business day after the agency submits the additional findings or new statement. If the Codifier of Rules again finds that the statement does not meet the criteria in subsection (a) of this section, the Codifier of Rules must immediately notify the head of the agency.

If an agency decides not to provide additional findings or submit a new statement when notified by the Codifier of Rules that the agency's findings of need for a rule do not meet the required criteria, the agency must notify the Codifier of Rules of its decision. The Codifier of Rules must then enter the rule in the North Carolina Administrative Code on the sixth business day after receiving notice of the agency's decision. Notwithstanding any other provision of this subsection, if the agency has not complied with the provisions of G.S. 12-3.1, the Codifier of Rules shall not enter the rule into the Code.

(c) **Standing.** – A person aggrieved by an emergency rule adopted by an agency may file an action for declaratory judgment in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes. In the action, the court shall determine whether the agency's written statement of findings of need for the rule meets the criteria listed in subsection (a) of this section and whether the rule meets the standards in G.S. 150B-21.9. The court shall not grant an ex parte temporary restraining order.

Filing a petition for rule making or a request for a declaratory ruling with the agency that adopted the rule is not a prerequisite to filing an action under this subsection. A person who files an action for declaratory judgment under this subsection must serve a copy of the complaint on the agency that adopted the rule being contested, the Codifier of Rules, and the Commission.

(d) **Effective Date and Expiration.** – An emergency rule becomes effective on the date specified in G.S. 150B-21.3. An emergency rule expires on the earliest of the following dates:

- (1) The date specified in the rule.
- (2) The effective date of the temporary rule adopted to replace the emergency rule, if the Commission approves the temporary rule.
- (3) The date the Commission returns to an agency a temporary rule the agency adopted to replace the emergency rule.
- (4) Sixty days from the date the emergency rule was published in the North Carolina Register, unless the temporary rule adopted to replace the emergency rule has been submitted to the Commission.

(e) **Publication.** – When the Codifier of Rules enters an emergency rule in the North Carolina Administrative Code, the Codifier of Rules must publish the rule in the North Carolina Register.

§ 150B-21.1B: Expired pursuant to Session Laws 2009-475, s. 16, effective June 30, 2012.

§ 150B-21.2. Procedure for adopting a permanent rule.

(a) **Steps.** – Before an agency adopts a permanent rule, the agency must comply with the requirements of G.S. 150B-19.1, and it must take the following actions:

- (1) Publish a notice of text in the North Carolina Register.
- (2) When required by G.S. 150B-21.4, prepare or obtain a fiscal note for the proposed rule.
- (3) Repealed by Session Laws 2003-229, s. 4, effective July 1, 2003.
- (4) When required by subsection (e) of this section, hold a public hearing on the proposed rule after publication of the proposed text of the rule.
- (5) Accept oral or written comments on the proposed rule as required by subsection (f) of this section.

(b) Repealed by Session Laws 2003-229, s. 4, effective July 1, 2003.

(c) **Notice of Text.** – A notice of the proposed text of a rule must include all of the following:

- (1) The text of the proposed rule, unless the rule is a readoption without substantive changes to the existing rule proposed in accordance with G.S. 150B-21.3A.
- (2) A short explanation of the reason for the proposed rule.
- (2a) A link to the agency's Web site containing the information required by G.S. 150B-19.1(c).
- (3) A citation to the law that gives the agency the authority to adopt the rule.
- (4) The proposed effective date of the rule.
- (5) The date, time, and place of any public hearing scheduled on the rule.
- (6) Instructions on how a person may demand a public hearing on a proposed rule if the notice does not schedule a public hearing on the proposed rule and subsection (e) of this section requires the agency to hold a public hearing on the proposed rule when requested to do so.
- (7) The period of time during which and the person within the agency to whom written comments may be submitted on the proposed rule.
- (8) If a fiscal note has been prepared for the rule, a statement that a copy of the fiscal note can be obtained from the agency.
- (9) Repealed by Session Laws 2013-143, s. 1, effective June 19, 2013.

(d) **Mailing List.** – An agency must maintain a mailing list of persons who have requested notice of rule making. When an agency publishes in the North Carolina Register a notice of text of a proposed rule, it must mail a copy of the notice or text to each person on the mailing list who has requested notice on the subject matter described in the notice or the rule affected. An agency may charge an annual fee to each person on the agency's mailing list to cover copying and mailing costs.

(e) **Hearing.** – An agency must hold a public hearing on a rule it proposes to adopt if the agency publishes the text of the proposed rule in the North Carolina Register and the agency receives a written request for a public hearing on the proposed rule within 15 days after the notice of text is published. The agency must accept

comments at the public hearing on both the proposed rule and any fiscal note that has been prepared in connection with the proposed rule.

An agency may hold a public hearing on a proposed rule and fiscal note in other circumstances. When an agency is required to hold a public hearing on a proposed rule or decides to hold a public hearing on a proposed rule when it is not required to do so, the agency must publish in the North Carolina Register a notice of the date, time, and place of the public hearing. The hearing date of a public hearing held after the agency publishes notice of the hearing in the North Carolina Register must be at least 15 days after the date the notice is published. If notice of a public hearing has been published in the North Carolina Register and that public hearing has been cancelled, the agency shall publish notice in the North Carolina Register at least 15 days prior to the date of any rescheduled hearing.

(f) **Comments.** – An agency must accept comments on the text of a proposed rule that is published in the North Carolina Register and any fiscal note that has been prepared in connection with the proposed rule for at least 60 days after the text is published or until the date of any public hearing held on the proposed rule, whichever is longer. An agency must consider fully all written and oral comments received.

(g) **Adoption.** – An agency shall not adopt a rule until the time for commenting on the proposed text of the rule has elapsed and shall not adopt a rule if more than 12 months have elapsed since the end of the time for commenting on the proposed text of the rule. Prior to adoption, an agency shall review any fiscal note that has been prepared for the proposed rule and consider any public comments received in connection with the proposed rule or the fiscal note. An agency shall not adopt a rule that differs substantially from the text of a proposed rule published in the North Carolina Register unless the agency publishes the text of the proposed different rule in the North Carolina Register and accepts comments on the proposed different rule for the time set in subsection (f) of this section.

An adopted rule differs substantially from a proposed rule if it does one or more of the following:

- (1) Affects the interests of persons who, based on the proposed text of the rule published in the North Carolina Register, could not reasonably have determined that the rule would affect their interests.
- (2) Addresses a subject matter or an issue that is not addressed in the proposed text of the rule.
- (3) Produces an effect that could not reasonably have been expected based on the proposed text of the rule.

When an agency adopts a rule, it shall not take subsequent action on the rule without following the procedures in this Part. An agency must submit an adopted rule to the Rules Review Commission within 30 days of the agency's adoption of the rule.

(h) **Explanation.** – An agency must issue a concise written statement explaining why the agency adopted a rule if, within 15 days after the agency adopts the rule, a person asks the agency to do so. The explanation must state the principal reasons for and against adopting the rule and must discuss why the agency rejected any arguments made or considerations urged against the adoption of the rule. The agency must issue the explanation within 15 days after receipt of the request for an explanation.

(i) **Record.** – An agency must keep a record of a rule-making proceeding. The record must include all written comments received, a transcript or recording of any public hearing held on the rule, any

fiscal note that has been prepared for the rule, and any written explanation made by the agency for adopting the rule.

§ 150B-21.3. Effective date of rules.

(a) **Temporary and Emergency Rules.** – A temporary rule or an emergency rule becomes effective on the date the Codifier of Rules enters the rule in the North Carolina Administrative Code.

(b) **Permanent Rule.** – A permanent rule approved by the Commission becomes effective on the first day of the month following the month the rule is approved by the Commission, unless the Commission received written objections to the rule in accordance with subsection (b2) of this section, or unless the agency that adopted the rule specifies a later effective date.

(b1) **Delayed Effective Dates.** – ~~If Except as provided in G.S. 14-4.1,~~ if the Commission received written objections to the rule in accordance with subsection (b2) of this section, the rule becomes effective on the earlier of the thirty-first legislative day or the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the Commission approved the rule, unless a different effective date applies under this section. If a bill that specifically disapproves the rule is introduced in either house of the General Assembly before the thirty-first legislative day of that session, the rule becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the General Assembly adjourns without ratifying a bill that specifically disapproves the rule. If the agency adopting the rule specifies a later effective date than the date that would otherwise apply under this subsection, the later date applies. A permanent rule that is not approved by the Commission or that is specifically disapproved by a bill enacted into law before it becomes effective does not become effective.

A bill specifically disapproves a rule if it contains a provision that refers to the rule by appropriate North Carolina Administrative Code citation and states that the rule is disapproved. Notwithstanding any rule of either house of the General Assembly, any member of the General Assembly may introduce a bill during the first 30 legislative days of any regular session to disapprove a rule that has been approved by the Commission and that either has not become effective or has become effective by executive order under subsection (c) of this section.

(b2) **Objection.** – Any person who objects to the adoption of a permanent rule may submit written comments to the agency. If the objection is not resolved prior to adoption of the rule, a person may submit written objections to the Commission. If the Commission receives written objections from 10 or more persons, no later than 5:00 P.M. of the day following the day the Commission approves the rule, clearly requesting review by the legislature in accordance with instructions posted on the agency's Web site pursuant to G.S. 150B-19.1(c)(4), and the Commission approves the rule, the rule will become effective as provided in subsection (b1) of this section. The Commission shall notify the agency that the rule is subject to legislative disapproval on the day following the day it receives 10 or more written objections. When the requirements of this subsection have been met and a rule is subject to legislative disapproval, the agency may adopt the rule as a temporary rule if the rule would have met the criteria listed in G.S. 150B-21.1(a) at the time the notice of text for the permanent rule was published in the North Carolina Register. If the Commission receives objections from 10 or more persons clearly requesting review by the legislature, and the rule objected to is one of a group of related

ADMINISTRATIVE PROCEDURES ACT 150(B)

§ 150B-19.1. Requirements for agencies in the rulemaking process.

(a) In developing and drafting rules for adoption in accordance with this Article, agencies shall adhere to the following principles:

- (1) An agency may adopt only rules that are expressly authorized by federal or State law and that are necessary to serve the public interest.
- (2) An agency shall seek to reduce the burden upon those persons or entities who must comply with the rule.
- (3) Rules shall be written in a clear and unambiguous manner and must be reasonably necessary to implement or interpret federal or State law.
- (4) An agency shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed. The agency shall not adopt a rule that is unnecessary or redundant.
- (5) When appropriate, rules shall be based on sound, reasonably available scientific, technical, economic, and other relevant information. Agencies shall include a reference to this information in the notice of text required by G.S. 150B-21.2(c).
- (6) Rules shall be designed to achieve the regulatory objective in a cost-effective and timely manner.

(b) Each agency subject to this Article shall conduct an annual review of its rules to identify existing rules that are unnecessary, unduly burdensome, or inconsistent with the principles set forth in subsection (a) of this section. The agency shall repeal any rule identified by this review.

(c) Each agency subject to this Article shall post on its website, no later than the publication date of the notice of text in the North Carolina Register, all of the following:

- (1) The text of a proposed rule.
- (2) An explanation of the proposed rule and the reason for the proposed rule.
- (3) The federal certification required by subsection (g) of this section.
- (4) Instructions on how and where to submit oral or written comments on the proposed rule, including a description of the procedure by which a person can object to a proposed rule and subject the proposed rule to legislative review.
- (5) Any fiscal note that has been prepared for the proposed rule.

If an agency proposes any change to a rule or fiscal note prior to the date it proposes to adopt a rule, the agency shall publish the proposed change on its website as soon as practicable after the change is drafted. If an agency's staff proposes any such change to be presented to the rulemaking agency, the staff shall publish the proposed change on the agency's website as soon as practicable after the change is drafted.

(d) Each agency shall determine whether its policies and programs overlap with the policies and programs of another agency. In the event two or more agencies' policies and programs overlap, the agencies shall coordinate the rules adopted by each agency to avoid unnecessary, unduly burdensome, or inconsistent rules.

(e) Each agency shall quantify the costs and benefits to all parties of a proposed rule to the greatest extent possible. Prior to submission of a proposed rule for publication in accordance with G.S. 150B-21.2, the agency shall review the details of any fiscal note prepared in connection with the proposed rule and approve the fiscal note before submission.

(f) If the agency determines that a proposed rule will have a substantial economic impact as defined in G.S. 150B-21.4(b1), the agency shall consider at least two alternatives to the proposed rule. The alternatives may have been identified by the agency or by members of the public.

(g) Whenever an agency proposes a rule that is purported to implement a federal law, or required by or necessary for compliance with federal law, or on which the receipt of federal funds is conditioned, the agency shall:

(1) Prepare a certification identifying the federal law requiring adoption of the proposed rule. The certification shall contain a statement setting forth the reasons why the proposed rule is required by federal law. If all or part of the proposed rule is not required by federal law or exceeds the requirements of federal law, then the certification shall state the reasons for that opinion.

(2) Post the certification on the agency website in accordance with subsection (c) of this section.

(3) Maintain a copy of the federal law and provide to the Office of State Budget and Management the citation to the federal law requiring or pertaining to the proposed rule.

§ 163-86. Hearing on challenge.

(a) A challenge made under G.S. 163-85 shall be heard and decided before the date of the next primary or election, except that if the board finds that because of the number of challenges, it cannot hold all hearings before the date of the election, it may order the challenges to be heard and decided at the next time the challenged person appears and seeks to vote, as if the challenge had been filed under G.S. 163-87. Unless the hearing is ordered held under G.S. 163-87, it shall be heard and decided by the board of elections.

(b) At least 10 days prior to the hearing scheduled under G.S. 163-86(c), the board of elections shall mail by first-class mail, a written notice of the challenge to the challenged voter, to the address of the voter listed in the registration records of the county. The notice shall state succinctly the grounds asserted, and shall state the time and place of the hearing. If the hearing is to be held at the polls, the notice shall state that fact and shall list the date of the next scheduled election, the location of the voter's polling place, and the time the polls will be open. A copy of the notice shall be sent to the person making the challenge and to the chairman of each political party in the county.

(c) At the time and place set for the hearing on a challenge entered prior to the date of a primary or election, the county board of elections shall explain to the challenged registrant the qualifications for registration and voting in this State. The board chairman, or in his absence the board secretary, shall then administer the following oath to the challenged registrant:

"You swear (or affirm) that the statements and information you shall give in this hearing with respect to your identity and qualifications to be registered and to vote shall be the truth, the whole truth, and nothing but the truth, so help you, God."

After swearing the challenged registrant, the board shall examine him as to his qualifications to be registered and to vote. If the challenged registrant insists that he is qualified, the board shall tender to him the following oath or affirmation:

"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 primary or election; that you are not disqualified from voting by the Constitution or the laws of this State; that your name is _____, and that in such name you were duly registered as a voter of _____ precinct; and that you are the person you represent yourself to be, so help you, God."

If the challenged registrant refuses to take the tendered oath, or submit to the board the affidavit required by subsection (d), below, the challenge shall be sustained. If the challenged registrant takes the tendered oath, the board may, nevertheless, sustain the challenge if it finds the challenged registrant is not a legal voter.

The board, in conducting hearings on challenges, shall have authority to subpoena any witnesses it may deem appropriate, and administer the necessary oaths or affirmations to all witnesses brought before it to testify to the qualifications of the persons challenged.

(d) Appearance by Challenged Registrant. – The challenged registrant shall appear in person at the challenge hearing. If he is unable to appear in person, he may be represented by another person and must tender to the county board of elections an affidavit that he is a citizen of the United States, is at least 18 years of age or will become 18 by the date of the next general election, has or will have resided in this State and in the precinct for which registered for 30 days by the date of the next primary or election, is not disqualified from voting by the Constitution or laws of this State, is named _____ and was duly registered as a voter of _____ precinct in such name, and is the person represented to be by the affidavit. (1901, c. 89, s. 22; Rev., s. 4340; C.S., s. 5973; 1955, c. 871, s. 2; 1967, c. 775, s. 1; 1971, c. 1231, s. 1; 1973, c. 793, s. 35; 1979, c. 357, s. 2; 2008-150, s. 5(b); 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

§ 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) That a person is dead, or
- (7) That a person is not a citizen of the United States, or
- (8) With respect to municipal registration only, that a person is not a resident of the municipality in which the person is registered, or
- (9) 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. (1901, c. 89, s. 19; Rev., s. 4339; C.S., s. 5972; 1953, c. 843; 1955, c. 800; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1973, c. 793, s. 34; 1979, c. 357, s. 1; 1985, c. 563, ss. 11-11.2, 11.5; c. 589, s. 60; 1993 (Reg. Sess., 1994), c. 762, s. 25; 2009-526, s. 1.2; 2009-541, s. 16.1(a); 2009-550, s. 11; 2010-96, s. 18; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

ADMINISTRATIVE PROCEDURES ACT 150(B)

§ 150B-19.1. Requirements for agencies in the rulemaking process.

(a) In developing and drafting rules for adoption in accordance with this Article, agencies shall adhere to the following principles:

- (1) An agency may adopt only rules that are expressly authorized by federal or State law and that are necessary to serve the public interest.
- (2) An agency shall seek to reduce the burden upon those persons or entities who must comply with the rule.
- (3) Rules shall be written in a clear and unambiguous manner and must be reasonably necessary to implement or interpret federal or State law.
- (4) An agency shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed. The agency shall not adopt a rule that is unnecessary or redundant.
- (5) When appropriate, rules shall be based on sound, reasonably available scientific, technical, economic, and other relevant information. Agencies shall include a reference to this information in the notice of text required by G.S. 150B-21.2(c).
- (6) Rules shall be designed to achieve the regulatory objective in a cost-effective and timely manner.

(b) Each agency subject to this Article shall conduct an annual review of its rules to identify existing rules that are unnecessary, unduly burdensome, or inconsistent with the principles set forth in subsection (a) of this section. The agency shall repeal any rule identified by this review.

(c) Each agency subject to this Article shall post on its website, no later than the publication date of the notice of text in the North Carolina Register, all of the following:

- (1) The text of a proposed rule.
- (2) An explanation of the proposed rule and the reason for the proposed rule.
- (3) The federal certification required by subsection (g) of this section.
- (4) Instructions on how and where to submit oral or written comments on the proposed rule, including a description of the procedure by which a person can object to a proposed rule and subject the proposed rule to legislative review.
- (5) Any fiscal note that has been prepared for the proposed rule.

If an agency proposes any change to a rule or fiscal note prior to the date it proposes to adopt a rule, the agency shall publish the proposed change on its website as soon as practicable after the change is drafted. If an agency's staff proposes any such change to be presented to the rulemaking agency, the staff shall publish the proposed change on the agency's website as soon as practicable after the change is drafted.

(d) Each agency shall determine whether its policies and programs overlap with the policies and programs of another agency. In the event two or more agencies' policies and programs overlap, the agencies shall coordinate the rules adopted by each agency to avoid unnecessary, unduly burdensome, or inconsistent rules.

(e) Each agency shall quantify the costs and benefits to all parties of a proposed rule to the greatest extent possible. Prior to submission of a proposed rule for publication in accordance with G.S. 150B-21.2, the agency shall review the details of any fiscal note prepared in connection with the proposed rule and approve the fiscal note before submission.

(f) If the agency determines that a proposed rule will have a substantial economic impact as defined in G.S. 150B-21.4(b1), the agency shall consider at least two alternatives to the proposed rule. The alternatives may have been identified by the agency or by members of the public.

(g) Whenever an agency proposes a rule that is purported to implement a federal law, or required by or necessary for compliance with federal law, or on which the receipt of federal funds is conditioned, the agency shall:

(1) Prepare a certification identifying the federal law requiring adoption of the proposed rule. The certification shall contain a statement setting forth the reasons why the proposed rule is required by federal law. If all or part of the proposed rule is not required by federal law or exceeds the requirements of federal law, then the certification shall state the reasons for that opinion.

(2) Post the certification on the agency website in accordance with subsection (c) of this section.

(3) Maintain a copy of the federal law and provide to the Office of State Budget and Management the citation to the federal law requiring or pertaining to the proposed rule.

RULE 23.0103
objection packet
w/ 2 exhibits

1 08 NCAC 23 .0103 is adopted with changes as published in 40:14 NCR 1196-1197 as follows:

2
3 **08 NCAC 23 .0103 PRELIMINARY HEARING**

4
5 (a) A preliminary hearing shall be held no earlier than 10 business days and no later than 15 20 business days after
6 the notice of preliminary hearing is mailed to the challenged voter in accordance with Rule .0102 of this ~~Section.~~
7 Section, unless the challenged voter voluntarily cancels their registration before the date of the hearing. The
8 preliminary hearing shall be noticed as a special meeting in accordance with G.S. 143-318.12(b). The written notice
9 required by G.S. 143-318.12(b)(2) shall be emailed at least five business days before the preliminary hearing to the
10 county board's notice list and any other person who has requested that the county board give them notice of
11 proceedings under this Section. Section, and to the challenged voter by separate email if the county board possesses
12 an email address for the challenged voter.

13 (b) The county board shall follow the procedures in G.S. 163-85(d) for the receipt of evidence at the preliminary
14 hearing. hearing, but the official entering the challenge shall not be required to present sworn testimony. At the
15 conclusion of the preliminary hearing, the county board shall make the probable cause determination required under
16 G.S. 163-85(d) as to whether the challenged voter is a United States citizen. The county board's determination of
17 probable cause shall be based on only the following:

- 18 (1) the notice of ~~non-citizenship;~~ non-citizenship and any related documentation or information
19 provided by the State Board;
20 (2) official government documents and information from official government records and databases
21 obtained by the county board; and
22 (3) any documentation of citizenship or information that can be used to determine the challenged
23 voter's citizenship that is submitted to the county board by the challenged ~~voter.~~ voter, whether
24 submitted before or at the preliminary hearing.

25 When reviewing documentation of citizenship provided by the challenged voter, the county board shall determine
26 whether the name on the documentation is the same as or substantially equivalent to the name contained in the
27 voter's voter registration record by applying the standards in 08 NCAC 17 .0101(a)(3).

28 (c) The county board's determination of probable cause under Paragraph (b) of this Rule shall be announced at the
29 preliminary hearing and the county board shall then proceed as follows:

- 30 (1) If the county board determines that probable cause exists that the challenged voter is not a United
31 States citizen, then the county board shall set a date for the challenge hearing and send notice of
32 the challenge hearing to the challenged voter in accordance with Rule .0104(b) of this Section.
33 (2) If the county board determines that probable cause does not exist that the challenged voter is not a
34 United States citizen, then the county board shall dismiss the challenge and proceed in accordance
35 with G.S. 163-90.2(b). The grounds for the county board's decision shall be recorded in a written
36 decision within ten business days of the preliminary hearing and a copy of the written decision
37 shall be provided to the challenged voter using the same method of delivery used to send the

1 notice of the challenge under Rule .0102(b) of this Section. The official entering the challenge
2 shall have no right of appeal of the county board's dismissal of the challenge.

3

4 *History Note: Authority G.S. 163-22; 163-82.14; 163-82.26; 163-85; 163-90.1; 163-90.2;*

5 *Eff. ~~May~~ June 1, 2026.*

DRAFT

OBJECTION TO RULE 08 NCAC 23.0103. PRELIMINARY HEARING

Violation of the Administrative Procedures Act § 150(B)-19.1(a)(3) “Rules shall be written in a clear and unambiguous manner and must be reasonably necessary to implement or interpret federal or State law.”

Objection: According to the 08 NCAC 23.0103((b)(2) – **(line20)** of the Preliminary Hearing rule, states that there are three points that the County Board of Elections should use to determine if probable cause exists to challenge a voter’s citizenship. The **second** of those three are: “official government documents and information from official government records and databases obtained by the county board; and...” “

Whereas we do not know what the “official government documents and information” are, and we do not know the **source** of the official government records and databases that are being used to generate that information to the County Board, this does not fulfill the “clear and unambiguous manner” referred to in the Administrative Procedures Act cited above. It should be clear if the databases being used are accredited and certified for use with voting systems and that government records being used are from reliable and reputable sources. Neither of which are explicit, and therefore also ambiguous.

Violation of the Administrative Procedures Act § 150(B)-19.1(a)(3) “An agency **shall** seek to reduce the burden upon those persons or entities who must comply with the rule.”

Objection: According to the 08 NCAC 23.0103((b)(3) – **(line 22)** of the Preliminary Hearing rule, offers the **third** of those three points for probable cause determination to be used by the County Board to decide if the challenged voter is a citizen by considering: “any documentation of citizenship or information that can be used to determine the challenged voter’s citizenship that is submitted to the county board by the challenged voter, whether submitted before or at the preliminary hearing.” This clearly violates seeking to REDUCE the burden upon those who must comply by:

- Placing the burden of proof on the challenged voter instead of on the challenger as prescribed in **G.S. § 163-85.(d)**, and
- Not considering the logistics and financial costs associated with acquiring documents accepted as proof by the Board. In order to be in compliance with reducing the burden on those that need to comply, some means of assistance should be provided to reduce the burden (or harm) to someone with mobility issues, or financial issues.

Violation of the NC G.S. § 163-85.(d) ““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.**”

Objection: Requesting the challenged voter to produce documents to prove they are a legitimate North Carolina precinct voter puts the burden of proof on the challenged voter and NOT on the challenger as per NC G.S. § 163-85.(d) "The burden of proof **shall** be on the challenger, and if no testimony is presented, the board **shall** dismiss the challenge."

Further, there is no guidance given on what should be considered as justifiable, reputable, credible, factual, or even reliable evidence to qualify a challenger as having provided proof of non-citizenship and no further processing should be followed until, or unless, the challenger can provide substantiated proof that is qualified according to some guidelines set.

§ 150B-19.1. Requirements for agencies in the rulemaking process.

(a) In developing and drafting rules for adoption in accordance with this Article, agencies shall adhere to the following principles:

- (1) An agency may adopt only rules that are expressly authorized by federal or State law and that are necessary to serve the public interest.
- (2) An agency shall seek to reduce the burden upon those persons or entities who must comply with the rule.
- (3) Rules shall be written in a clear and unambiguous manner and must be reasonably necessary to implement or interpret federal or State law.
- (4) An agency shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed. The agency shall not adopt a rule that is unnecessary or redundant.
- (5) When appropriate, rules shall be based on sound, reasonably available scientific, technical, economic, and other relevant information. Agencies shall include a reference to this information in the notice of text required by G.S. 150B-21.2(c).
- (6) Rules shall be designed to achieve the regulatory objective in a cost-effective and timely manner.

(b) Each agency subject to this Article shall conduct an annual review of its rules to identify existing rules that are unnecessary, unduly burdensome, or inconsistent with the principles set forth in subsection (a) of this section. The agency shall repeal any rule identified by this review.

(c) Each agency subject to this Article shall post on its website, no later than the publication date of the notice of text in the North Carolina Register, all of the following:

- (1) The text of a proposed rule.
- (2) An explanation of the proposed rule and the reason for the proposed rule.
- (3) The federal certification required by subsection (g) of this section.
- (4) Instructions on how and where to submit oral or written comments on the proposed rule, including a description of the procedure by which a person can object to a proposed rule and subject the proposed rule to legislative review.
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If an agency proposes any change to a rule or fiscal note prior to the date it proposes to adopt a rule, the agency shall publish the proposed change on its website as soon as practicable after the change is drafted. If an agency's staff proposes any such change to be presented to the rulemaking agency, the staff shall publish the proposed change on the agency's website as soon as practicable after the change is drafted.

(d) Each agency shall determine whether its policies and programs overlap with the policies and programs of another agency. In the event two or more agencies' policies and programs overlap, the agencies shall coordinate the rules adopted by each agency to avoid unnecessary, unduly burdensome, or inconsistent rules.

(e) Each agency shall quantify the costs and benefits to all parties of a proposed rule to the greatest extent possible. Prior to submission of a proposed rule for publication in accordance with G.S. 150B-21.2, the agency shall review the details of any fiscal note prepared in connection with the proposed rule and approve the fiscal note before submission.

(f) If the agency determines that a proposed rule will have a substantial economic impact as defined in G.S. 150B-21.4(b1), the agency shall consider at least two alternatives to the proposed rule. The alternatives may have been identified by the agency or by members of the public.

(g) Whenever an agency proposes a rule that is purported to implement a federal law, or required by or necessary for compliance with federal law, or on which the receipt of federal funds is conditioned, the agency shall:

- (1) Prepare a certification identifying the federal law requiring adoption of the proposed rule. The certification shall contain a statement setting forth the reasons why the proposed rule is required by federal law. If all or part of the proposed rule is not required by federal law or exceeds the requirements of federal law, then the certification shall state the reasons for that opinion.

(2) Post the certification on the agency website in accordance with subsection (c) of this section.

(3) Maintain a copy of the federal law and provide to the Office of State Budget and Management the citation to the federal law requiring or pertaining to the proposed rule.

(h) Repealed by Session Laws 2014-120, s. 6(a), effective September 18, 2014, and applicable to proposed rules published on or after that date. (2011-398, s. 2; 2012-187, s. 3; 2013-143, s. 1.1; 2014-120, s. 6(a); 2025-25, s. 29(5), (6).)

§ 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) That a person is dead, or
- (7) That a person is not a citizen of the United States, or
- (8) With respect to municipal registration only, that a person is not a resident of the municipality in which the person is registered, or
- (9) 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. (1901, c. 89, s. 19; Rev., s. 4339; C.S., s. 5972; 1953, c. 843; 1955, c. 800; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1973, c. 793, s. 34; 1979, c. 357, s. 1; 1985, c. 563, ss. 11-11.2, 11.5; c. 589, s. 60; 1993 (Reg. Sess., 1994), c. 762, s. 25; 2009-526, s. 1.2; 2009-541, s. 16.1(a); 2009-550, s. 11; 2010-96, s. 18; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

Rule 23.0104
objection packet
w/ 3 exhibits

1 08 NCAC 23 .0104 is adopted with changes as published in 40:14 NCR 1197-1198 as follows:

2
3 **08 NCAC 23 .0104 CHALLENGE HEARING**

4
5 (a) A challenge hearing shall be held no earlier than 10 business days and no later than 20 business days after the
6 county board has ordered the challenge to proceed to a challenge hearing under Rule .0103(d)(1) of this ~~Section-~~
7 Section, unless the challenged voter voluntarily cancels their registration before the date of the hearing. If the county
8 board is unable to confirm that the challenged voter received the notice of the challenge hearing, then the county
9 board shall continue the hearing to a date no earlier than 10 business days from the date of the original challenge
10 hearing. The challenge hearing shall be noticed as a special meeting in accordance with G.S. 143-318.12(b). The
11 written notice required by G.S. 143-318.12(b)(2) shall be emailed at least 10 business days before the challenge
12 hearing to the county board's notice list and any other person who has requested that the county board give them
13 notice of proceedings under this Section.

14 (b) The county board shall send written notice of the challenge hearing to the challenged voter by the deadline to do
15 so in G.S. 163-86(b) and no later than three business days after the county board has ordered the challenge to
16 proceed to a challenge hearing under Rule .0103(d)(1) of this ~~Section-~~ Section or has continued the hearing as
17 provided in this Rule. The notice to the challenged voter shall include the information required under G.S. 163-86(b)
18 and shall be sent by U.S. mail using a method of delivery that documents receipt. The notice shall also be provided
19 by email to the challenged voter using any email address that the county board possesses for the challenged voter.

20 (c) The county board shall conduct the challenge hearing using the procedures in G.S. 163-86(c) and (d) as well as
21 the following additional procedures:

- 22 (1) The challenge hearing shall be recorded by a court reporter or by mechanical means.
- 23 (2) Upon request by the challenged voter, the chair or any two members of the county board shall
24 issue subpoenas for witnesses or documents, when the chair or two members of the county board
25 conclude that the witnesses or documents are likely to provide information that is both relevant
26 and material to the challenged voter's citizenship, the information sought is not unnecessarily
27 duplicative of other available evidence, and the subpoena is not likely to subject the recipient to
28 undue burden or expense. Such subpoenas shall be served in the same manner as allowed in the
29 North Carolina Rules of Civil Procedure. The county board shall continue the hearing to a date no
30 earlier than 10 business days from the date of the challenge hearing if the county board is unable
31 to confirm service of the subpoenas.
- 32 (3) After the challenged voter has been administered the first oath under G.S. 163-86(c), the county
33 board shall provide the challenged voter with the information and documents included with the
34 notice of the challenge under Rule .0102(b) of this Section as well as any additional information
35 and documents considered by the county board at the preliminary hearing.
- 36 (4) The challenged voter shall be permitted the opportunity to present documentation of citizenship
37 and sworn testimony as to their citizenship before being tendered the second oath under G.S. 163-

1 86(c). If the challenged voter submits documentation of citizenship, then the county board shall,
2 when reviewing the documentation of citizenship, determine whether the name on the
3 documentation is the same as or substantially equivalent to the name contained in the voter's voter
4 registration record by applying the standards in 08 NCAC 17 .0101(a)(3).

5 (5) _____ The county board shall continue the challenge hearing to a later date upon oral or written request
6 to do so by the challenged voter if that request is accompanied by documentation showing the
7 challenged voter has made a request to a government agency to obtain documentation of
8 citizenship. In setting the date of the continued challenge hearing, the county board shall consider
9 information from the government agency regarding the time needed to process the challenged
10 voter's request.

11 (5) (6) If the challenged voter or an authorized representative does not appear at the challenge hearing,
12 and the challenged voter has not submitted any documentation of citizenship for the county
13 board's consideration, then the notice of non-citizenship shall be treated by the county board as
14 affirmative proof necessary to sustain the challenge under G.S. 163-90.1(b).

15 (6) (7) If the challenged voter has not submitted documentation of citizenship but has provided sworn
16 testimony or other evidence regarding their citizenship, then the county board shall consider that
17 testimony or other evidence when determining whether to sustain or overrule the challenge.

18 (d) The county board's decision on the challenge shall be announced at the conclusion of the challenge hearing and
19 the grounds for the county board's decision shall be recorded in a written decision within five business days of the
20 challenge hearing. A copy of the written decision shall be sent to the challenged voter using the same method of
21 delivery used to send the notice of the challenge under Rule .0102(b) of this Section. In making its decision on the
22 challenge, the county board shall do one of the following:

23 (1) If the challenged voter refuses to take the second oath under G.S. 163-86(c) or submit to the
24 county board the affidavit required by G.S. 163-86(d), or if the county board finds that the
25 challenged voter is not a United States ~~citizen~~, citizen by the greater weight of the evidence, then
26 the county board shall sustain the challenge and proceed in accordance with G.S. 163-90.2(a). The
27 time in which the voter has the right to appeal under G.S. 163-90.2(c) shall be measured from the
28 date on which the written decision is recorded and sent to the challenged voter in accordance with
29 this Paragraph.

30 (2) If the county board decides that the challenge cannot be substantiated by the greater weight of the
31 evidence, ~~affirmative proof~~, or finds that the challenged voter is a United States ~~citizen~~, citizen by
32 the greater weight of the evidence, then the county board shall overrule the challenge and proceed
33 in accordance with G.S. 163-90.2(b). The official entering the challenge shall have no right of
34 appeal of the county board's decision to overrule the challenge.

35
36 *History Note:* Authority G.S. 163-22; 163-82.14; 163-82.26; 163-86; 163-90.1; 163-90.2;
37 *Eff. ~~May~~ June 1, 2026.*

OBJECTIONS TO RULE 08 NCAC 23 .0104. CHALLENGE HEARING

Violation of Administrative Procedures Act 150(B)-19.1(2) "An agency shall seek to reduce the burden upon those persons or entities who must comply with the rule."

08 NCAC 23 .0104.(a) (lines 10-13)

"The challenge hearing shall be noticed as a special meeting in accordance with G.S.§ 143-318.12(b). The written notice required by G.S.§ 143-318.12(b)(2) shall be emailed at least 10 business days before the challenge hearing to the county board's notice list and any other person who has requested that the county board give them notice of the proceedings under this Section.

Objection: This is inconsistent with the delivery mechanism used for the first notice of delivery for the County preliminary hearing which included postal mail and by email if one was on file. An email is not mandated on the application form for registering a voter. This could cause communication error for the challenged voter and increases the possibility of challenged voter not showing up to a significant hearing. Including the postal mailing diminishes the possibility of the challenged voter not responding due to the possibility that the

1. Registered/challenged voter cannot afford wifi service,
2. Registered/challenged voter does not have access to a computer on a regular basis,
3. Registered/challenged voter is computer illiterate.

For uniformity in hearing notification, and to avoid any contest of appeal, postal mailing should be included as it was initially, so as to narrow the possibility of a "no show" due to the lack of contact (which was used to successfully contact the challenged voter in the initial preliminary County hearing. {Refer to 08 NCAC 23 .0102 (b) (lines 23-26)}

Violation of Administrative Procedures Act 150(B) -19.1 (a)(2) "An Agency shall seek to reduce the burden upon those persons or entities who must comply with the rule."

08 NCAC 23 .0104 (c)(3) (lines 32-35)

"After the challenged voter has been administered the first oath under G.S. 163-86(c), the county board shall provide the challenged voter with the information and documents included with the notice of the challenge under Rule .0102(b) of this Section as well as any additional information and documents considered by the county board at the preliminary hearing."

Objection: Since this hearing is a quasi- legal court, it would seem that evidence (information and documents that were included with the challenge) should be put forth as discovery/disclosure for the challenged voter to obtain prior to the hearing in order to prepare a defense prior to getting presented with it after taking an oath. The name of the challenger could be redacted until arrival at the hearing. But the challenged voter, would be able to provide a more immediate response at the hearing to defeat, or clarify the challenge with-out stress, or undue financial burden going back and forth to places to acquire what may already be on hand at home, or obtain it prior to appearing at the challenge hearing. If a challenged voter planned to not attend the scheduled hearing, that challenged voter, once receiving the notice of a challenge hearing, would likely make those plans regardless. If the

notice offered the documents for discovery to be received from the county board office, it could be possible to retrieve the items needed and clear allegations at that time eliminating the need for the challenge hearing.

08 NCAC 23 .0104 (c)(3) (line32) and (c)(4) (line37)

Objection: On administration of the 1st and 2nd oaths, should the challenged voter not have English as their first language, and since the oaths are not something common to the everyday language, an option for a translator should be offered in their native language so that there is no confusion, nor misunderstanding about the strengths of these oaths, or confusion as to what affirmation they are making so as not to open an avenue for appeal, or further actionable legal issues. .

Violation of Administrative Procedures Act 150(B) - 19.1 ((a)3) “Rules **shall** be written in a clear and unambiguous manner and must be reasonably necessary to implement or interpret federal or State law.”

08 NCAC 23 .0104.(c)(5) reads: “The county board **shall** continue the challenge hearing to a later date upon oral or written request to do so by the challenged voter **if** that request is accompanied by documentation showing the challenged voter has made a request to a government agency to obtain documentation of citizenship. In setting the date of the continued challenge hearing, the county board **shall** consider information from the government agency regarding the time needed to process the challenged voter’s request.”

Objection: Once again the burden of proof shifts to the challenged voter, instead of to the challenger as defined in NC G.S. § 163-85.(d) which reads:

“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.”

Further, it puts an undue burden on the challenged voter by requiring them to incur costs that may not be affordable, nor a means available for them to acquire those requirements (finding a parental birth certificate for example).

§ 143-318.12. Public notice of official meetings.

(a) If a public body has established, by ordinance, resolution, or otherwise, a schedule of regular meetings, it shall cause a current copy of that schedule, showing the time and place of regular meetings, to be kept on file as follows:

- (1) For public bodies that are part of State government, with the Secretary of State;
- (2) For the governing board and each other public body that is part of a county government, with the clerk to the board of county commissioners;
- (3) For the governing board and each other public body that is part of a city government, with the city clerk;
- (4) For each other public body, with its clerk or secretary, or, if the public body does not have a clerk or secretary, with the clerk to the board of county commissioners in the county in which the public body normally holds its meetings.

If a public body changes its schedule of regular meetings, it shall cause the revised schedule to be filed as provided in subdivisions (1) through (4) of this subsection at least seven calendar days before the day of the first meeting held pursuant to the revised schedule.

(b) If a public body holds an official meeting at any time or place other than a time or place shown on the schedule filed pursuant to subsection (a) of this section, it shall give public notice of the time and place of that meeting as provided in this subsection.

(1) If a public body recesses a regular, special, or emergency meeting held pursuant to public notice given in compliance with this subsection, and the time and place at which the meeting is to be continued is announced in open session, no further notice shall be required.

(2) For any other meeting, except an emergency meeting, the public body shall cause written notice of the meeting stating its purpose (i) to be posted on the principal bulletin board of the public body or, if the public body has no such bulletin board, at the door of its usual meeting room, and (ii) to be mailed, emailed, or delivered to each newspaper, wire service, radio station, and television station that has filed a written request for notice with the clerk or secretary of the public body or with some other person designated by the public body. The public body shall also cause notice to be mailed, emailed, or delivered to any person, in addition to the representatives of the media listed above, who has filed a written request with the clerk, secretary, or other person designated by the public body. This notice shall be posted and mailed, emailed, or delivered at least 48 hours before the time of the meeting. The notice required to be posted on the principal bulletin board or at the door of its usual meeting room shall be posted on the door of the building or on the building in an area accessible to the public if the building containing the principal bulletin board or usual meeting room is closed to the public continuously for 48 hours before the time of the meeting. The public body may require each newspaper, wire service, radio station, and television station submitting a written request for notice to renew the request annually. The public body shall charge a fee to persons other than the media, who request notice, of ten dollars (\$10.00) per calendar year, and may require them to renew their requests quarterly. No fee shall be charged for notices sent by email.

(3) For an emergency meeting, the public body shall cause notice of the meeting to be given to each local newspaper, local wire service, local radio station, and local television station that has filed a written request, which includes the newspaper's, wire service's, or station's telephone number, for emergency notice with the clerk or secretary of the public body or with some other person designated by the public body. This notice shall be given either by email, by telephone, or by the same method used to notify the members of the public body and shall be given immediately after notice has been given to those members. This notice shall be given at the expense of the party notified. Only business connected with the emergency may be considered at a meeting to which notice is given pursuant to this paragraph.

(c) Repealed by Session Laws 1991, c. 694, s. 6.

(d) If a public body has a website and has established a schedule of regular meetings, the public body shall post the schedule of regular meetings to the website.

(e) If a public body has a website that one or more of its employees maintains, the public body shall post notice of any meeting held under subdivisions (b)(1) and (b)(2) of this section prior to the scheduled time of that meeting.

(f) For purposes of this section, an "emergency meeting" is one called because of generally unexpected circumstances that require immediate consideration by the public body. (1979, c. 655, s. 1; 1991, c. 694, ss. 5, 6; 2009-350, s. 1; 2025-25, s. 29(1), (5).)

ADMINISTRATIVE PROCEDURES ACT 150(B)

§ 150B-19.1 Requirements for agencies in the rulemaking process.

(a) In developing and drafting rules for adoption in accordance with this Article, agencies shall adhere to the following principles:

- (1) An agency may adopt only rules that are expressly authorized by federal or State law and that are necessary to serve the public interest.
- (2) An agency shall seek to reduce the burden upon those persons or entities who must comply with the rule.
- (3) Rules shall be written in a clear and unambiguous manner and must be reasonably necessary to implement or interpret federal or State law.
- (4) An agency shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed. The agency shall not adopt a rule that is unnecessary or redundant.
- (5) When appropriate, rules shall be based on sound, reasonably available scientific, technical, economic, and other relevant information. Agencies shall include a reference to this information in the notice of text required by G.S. 150B-21.2(c).
- (6) Rules shall be designed to achieve the regulatory objective in a cost-effective and timely manner.

(b) Each agency subject to this Article shall conduct an annual review of its rules to identify existing rules that are unnecessary, unduly burdensome, or inconsistent with the principles set forth in subsection (a) of this section. The agency shall repeal any rule identified by this review.

(c) Each agency subject to this Article shall post on its website, no later than the publication date of the notice of text in the North Carolina Register, all of the following:

- (1) The text of a proposed rule.
- (2) An explanation of the proposed rule and the reason for the proposed rule.
- (3) The federal certification required by subsection (g) of this section.
- (4) Instructions on how and where to submit oral or written comments on the proposed rule, including a description of the procedure by which a person can object to a proposed rule and subject the proposed rule to legislative review.
- (5) Any fiscal note that has been prepared for the proposed rule.

If an agency proposes any change to a rule or fiscal note prior to the date it proposes to adopt a rule, the agency shall publish the proposed change on its website as soon as practicable after the change is drafted. If an agency's staff proposes any such change to be presented to the rulemaking agency, the staff shall publish the proposed change on the agency's website as soon as practicable after the change is drafted.

(d) Each agency shall determine whether its policies and programs overlap with the policies and programs of another agency. In the event two or more agencies' policies and programs overlap, the agencies shall coordinate the rules adopted by each agency to avoid unnecessary, unduly burdensome, or inconsistent rules.

(e) Each agency shall quantify the costs and benefits to all parties of a proposed rule to the greatest extent possible. Prior to submission of a proposed rule for publication in accordance with G.S. 150B-21.2, the agency shall review the details of any fiscal note prepared in connection with the proposed rule and approve the fiscal note before submission.

§ 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) That a person is dead, or
- (7) That a person is not a citizen of the United States, or
- (8) With respect to municipal registration only, that a person is not a resident of the municipality in which the person is registered, or
- (9) 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. (1901, c. 89, s. 19; Rev., s. 4339; C.S., s. 5972; 1953, c. 843; 1955, c. 800; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1973, c. 793, s. 34; 1979, c. 357, s. 1; 1985, c. 563, ss. 11-11.2, 11.5; c. 589, s. 60; 1993 (Reg. Sess., 1994), c. 762, s. 25; 2009-526, s. 1.2; 2009-541, s. 16.1(a); 2009-550, s. 11; 2010-96, s. 18; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)