

October 30, 2019

The Honorable Roy Cooper
North Carolina Office of the Governor
20301 Mail Service Center
Raleigh, NC 27699-0301

Re: S250 Veto Request

Dear Governor Cooper,

Democracy North Carolina is writing to ask you to veto S250, “Remove Foreign Citizens from Voting Rolls.” For the reasons set forth below, we believe the bill is unnecessary and dangerous.

S250 is the latest attempt by “voter integrity” activists to force the state and county boards of elections to use their limited resources to identify non-citizens on the voting rolls by using records of excusal or disqualification from jury duty. It requires the State Board of Elections (“State Board”) to develop a list maintenance or “purge” program that relies on jury excusal data to remove registered voters. More troubling, given the history of anti-voter activism on this issue, is attempt to allow public access to the underlying data provided by the courts to the State Board— the names and addresses of the individuals whose response to the jury summons indicates that they are not a U.S. citizen. This information would become a public record accessible to those who seek it.

S250’s rationale is rooted in disproven claims that North Carolina’s voting rolls are full of undetected non-citizens. The fundamental assumptions underlying this legislation are that (1) there are large numbers of unidentified non-citizens who are registered North Carolina voters, and (2) the jury excusal records will provide a reliable data source for identifying those non-citizens. Yet the actual experience of right-wing activists attempting this same method belies these assumptions. In 2012, Voter Integrity Project founder and Executive Director Jay DeLancy challenged the eligibility of 553 Wake County voters claiming that they were non-citizens, based on his comparison of the Wake County voter rolls with jury excusal and Division of Motor Vehicles data. Research conducted by the State Board and Wake County Board of Elections found that the vast majority of the challenges were frivolous: only 18 of the challenges brought by DeLancy met the burden of proof for further investigation by the three-member county Board. Of those 18, only 11 were actual non-citizens.¹ Further, a 2012 analysis conducted by WRAL revealed the same thing – jury excusal records are an unreliable source of data for identifying non-citizenship that will lead to large numbers of false positives.²

S250 will result in legitimate, naturalized voters being flagged for removal as non-citizens. Again, a previous attempt by the State Board of Elections to identify and remove suspected non-citizens from the voting rolls demonstrates both the difficulty and fruitlessness of the task. In 2014, the State Board of Elections responded to claims from North Carolinians For Immigration Reform and Enforcement that

¹ Leslie, L. (2012, August 21). Voter Fraud Activist ‘Frustrated’ by Outcome in Wake Co. WRAL. Retrieved from <https://www.wral.com/news/state/nccapitol/blogpost/11454426/>

² Binker, M. (2012, May 16). Voter fraud hard to prove; fears spark legislation. WRAL. Retrieved from <https://www.wral.com/voter-fraud-hard-to-prove-fears-spark-legislation/11107478/>

there were 10,000 non-citizens on the state voter rolls by launching a “Citizenship Audit.” The State Board’s research winnowed the list of 10,000 alleged non-citizens down to 1,425 voters, and it initiated a major Election Day effort to require precinct judges to challenge the eligibility of any of these suspected 1,425 non-citizen voters if they showed up on Election Day.³ Of those 1,425, only 89 people attempted to vote on Election Day. Of those 89, challenges to their eligibility were sustained in only 11 cases.⁴ However, for Mecklenburg County voter Diana Roberts, a Liberian-American who had naturalized as a minor through her father, the challenge derailed her first-ever attempt to vote in her new home country. According to coverage from *Facing South*, she and her father waited for hours for the challenge to play out. She finally left without voting, and told *Facing South* that she did not intend to try to vote again.⁵

S250 opens the door for harassment of legitimate, naturalized U.S. citizen voters. The tactic of filing mass voter eligibility challenges, a method utilized in North Carolina primarily by Voter Integrity Project activists, requires hundreds of hours of research by election officials, and intimidates voters (many of whom have no idea the challenge process exists). It can also expose these voters to in-person scrutiny by vigilantes dissatisfied with the government’s review— a distressing proposition in today’s political environment. In 2012, conservative provocateur James O’Keefe contacted one of the individuals identified by Voter Integrity Project research, went to his home, and filmed a confrontation with him.⁶ S250 makes the jury excusal data – the names of the individuals flagged – a public record; this would enable disgruntled activists to show up at a voter’s home or workplace to question their citizenship and otherwise harass them in the name of “election integrity.” Making this information available to the wider public would be reckless and dangerous.

You have previously exercised your veto power as to legislation that would undermine voter access, including early voting restrictions and the state’s strict photo voter ID law. We urge you to do the same in this instance and protect North Carolinians’ right to vote by vetoing S250.

Sincerely,

Tomas Lopez
Executive Director

³ NCCapitol. (2014, October 24). NC Board of Elections completes citizenship audit. WRAL. Retrieved from <https://www.wral.com/nc-board-of-elections-completes-citizenship-audit/14113174/>

⁴ Kromm, Chris. (2015, May 15). DENYING A DREAM: Charlotte voters snared in N.C. crackdown on alleged non-citizens. *Facing South*. Retrieved from <https://www.facingsouth.org/2015/05/denying-a-dream-charlotte-voters-snared-in-nc-crack>

⁵ Ibid.

⁶ Project Veritas. (2012, May 15). NC Non-Citizens Voting, Dead Offered Ballots, UNC Officials Embrace Voter Fraud. Retrieved from https://www.youtube.com/watch?feature=player_embedded&v=ptSrcNvJzBQ. The attempt to confront Mr. Romero can be seen in the first 50 seconds of the video.