



Wisconsin Elections Commission

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DATE: September 29, 2026

TO: Wisconsin State Senate President
Majority Leader, Wisconsin State Senate
Minority Leader, Wisconsin State Senate
Wisconsin Assembly Speaker
Wisconsin Assembly Majority Leader
Wisconsin Assembly Minority Leader

FROM: Don M. Millis, Chair
Wisconsin Elections Commission

SUBJECT: Citizenship Verification of Electors

Honorable Leaders of the Wisconsin Legislature

Last week the U.S. Supreme Court stayed a lower court order that had enjoined the expanded features of the Systematic Alien Verification for Entitlements (“SAVE”)¹ program for certain states.² As the Court noted, the SAVE program “has allowed federal, state, and local government agencies to verify the citizenship and immigration status of noncitizens applying for public benefits. For decades, it relied on records maintained by the Department of Homeland Security (DHS), the Department of Justice, and the Department of State.”³ In March 2025, President Trump signed an executive order directing DHS to create systems allowing state and local authorities to verify the citizenship status of registered voters and of persons registering to vote. In response to the executive order, the modified SAVE program permitted checks using forms of personally identifiable information (PII), including social security numbers.

While the SAVE program was previously not well adapted to elections needs, efforts to modernize the program have improved its speed and accuracy. Where the SAVE program

¹ The SAVE program is based on a federal law enacted in 1986 and is entirely distinct from the proposed SAVE Act pending in Congress. (*See*, H.R.22, S.1383.)

² *Dep’t of Homeland Security, et al. v. League of Women Voters, et al.*, 609 U.S. ____ (No. 26A308) (Sept. 25, 2026).

³ *Id.*, Slip Op. at 1.

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previously accessed only U.S. Citizenship and Immigration Services records, it now includes records from the Social Security Administration and the Department of State. Use of the program previously cost a considerable sum of money, but it is now free to states. Finally, the SAVE program used to accommodate only a single record search at a time; it now can accommodate bulk submissions of up to one million records. Since these changes were implemented, use of the program for elections has expanded rapidly. Twenty-nine states and the District of Columbia now access the SAVE program for voter registration or voter list maintenance.⁴

The information required to engage in citizenship checks using the SAVE program includes a first name, a last name, a date of birth and another unique identifier such as a Social Security number.⁵ State law, however, prohibits the disclosure of certain PII by election officials, including date of birth or Social Security number, except in certain limited exceptions. Wis. Stat. § 6.36(1)(b)1.a.⁶ There is no exception for the SAVE program, which means that neither local clerks nor the Commission may currently use, or even test the use of, the SAVE program.

Requiring potential voters to be U.S. citizens is codified in both state law and the Wisconsin Constitution. Wis. Stat. § 6.02; Wis. Const. Art. III, Sec. 2. When voters register to vote, they swear under penalty of law that they are a U.S. citizens and otherwise meet the legal qualifications to vote. The Commission and clerks rely on the voter's self-certification of eligibility, and state law also provides for a detailed voter challenge process if anyone has cause to believe that a voter is not eligible to vote because they are not a U.S. citizen. Wis. Stat. § 6.925; Wis. Admin. Code Chapter EL 9.

If the Wisconsin Legislature is considering amending state law to require the Commission or municipal clerks to independently verify U.S. citizenship of electors, through the SAVE program or otherwise, any implementing legislation would need to, at a minimum:

- (1) Determine who has the legal duty to verify U.S. citizenship of electors (the Commission or municipal clerks);
- (2) Authorize either the Commission or municipal clerks to share the elector information necessary (including PII) to perform the verification; and

⁴ Alabama, Arkansas, Arizona, Colorado, Florida, Georgia, Iowa, Idaho, Indiana, Kansas, Louisiana, Michigan, Missouri, Mississippi, Montana, North Carolina, North Dakota, Nebraska, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Virginia, West Virginia, Wyoming

⁵ <https://www.uscis.gov/save/about-save/save-verification-process>.

⁶ While the SAVE Program enabling statute overrides state laws that would prevent local and state agencies from providing “information regarding the citizenship or immigration status” of any individual (8 U.S.C. § 1373), this statute does not override Wisconsin’s prohibition on sharing PII.

- (3) Determine what standards should be used to confirm that an elector is ineligible to vote based on SAVE data (or other verification data).
 - a. Determine whether and under what circumstances the affected voter should be notified, similar to what municipal clerks already do under Wis. Stat. § 6.50(3), for example;
 - b. If the affected voter is to be notified, determine whether the voter is entitled to any kind of response prior to their voter record being deactivated on citizenship grounds, and;
 - c. Determine whether the verifier must confirm beyond a reasonable doubt that the voter does not qualify based on lack of U.S. citizenship, which is the current standard under Wis. Stat. § 6.325.
- (4) Determine whether any data or records received from the SAVE program by the Commission or municipal clerks should be exempt from disclosure under Wisconsin's public records laws.

Such legislation should identify whether local clerks and/or the Commission is responsible for engaging the SAVE program and for making changes to the Wisconsin voter registration database. This direction is essential because the Wisconsin law is very prescriptive regarding when and how the Commission may perform list maintenance. For example, the Commission may deactivate voters who have not participated in an election for 4 years under Wis. Stat. § 6.50(1), but **only** municipal clerks (or the City of Milwaukee Board of Election Commissioners) may deactivate a voter who moved to a new residence under Wis. Stat. § 6.50(3). Although the Commission does play an important role in importing and aggregating pertinent data, most other list maintenance functions are verified and carried out by clerks.

We appreciate that not all lawmakers will support an independent citizenship verification process that provides Wisconsin voter data to federal agencies. However, if the Legislature chooses to pursue such a process, it is my hope that lawmakers appreciate the need to explicitly authorize data sharing and delineate responsibilities between jurisdictions.

Thank you for your attention to this matter.

Sincerely,



Don M. Millis
Chair