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# Committee Report

**REGULAR CALENDAR**

**February 12, 2019**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

The Majority of the Committee on Election Law to which  
was referred HB 105-FN,

AN ACT relative to domicile residency, voter  
registration, and investigation of voter verification  
letters. Having considered the same, report the same  
with the recommendation that the bill OUGHT TO PASS.

**Rep. Edith DesMarais**

**FOR THE MAJORITY OF THE COMMITTEE**

**MAJORITY  
COMMITTEE REPORT**

Committee:	Election Law
Bill Number:	HB 105-FN
Title:	relative to domicile residency, voter registration, and investigation of voter verification letters.
Date:	February 12, 2019
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS

**STATEMENT OF INTENT**

The right to vote and high voter participation are critical for our democracy. NH's tradition of both is important to protect. This bill modifies forms and procedures for voter registration. The instructions to voters that were adopted last year describing "verifiable actions of domicile", have been determined to require a college degree to understand because they are convoluted and confusing. We heard testimony about people leaving the polls without voting. This confusion created unnecessary barriers for citizens seeking to exercise their constitutional right to vote including the elderly, young adults, and the homeless. NH has never had significant voter fraud issues and in fact is known for its integrity. The majority feels returning to the more straightforward voter registration process will eliminate problems created by the changes for many eligible voters and also for our hardworking election officials.

Vote 12-8.

Rep. Edith DesMarais  
FOR THE MAJORITY

Original: House Clerk  
Cc: Committee Bill File

## REGULAR CALENDAR

### Election Law

**HB 105-FN**, relative to domicile residency, voter registration, and investigation of voter verification letters. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Edith DesMarais for the **Majority** of Election Law. The right to vote and high voter participation are critical for our democracy. NH's tradition of both is important to protect. This bill modifies forms and procedures for voter registration. The instructions to voters that were adopted last year describing "verifiable actions of domicile", have been determined to require a college degree to understand because they are convoluted and confusing. We heard testimony about people leaving the polls without voting. This confusion created unnecessary barriers for citizens seeking to exercise their constitutional right to vote including the elderly, young adults, and the homeless. NH has never had significant voter fraud issues and in fact is known for its integrity. The majority feels returning to the more straightforward voter registration process will eliminate problems created by the changes for many eligible voters and also for our hardworking election officials.  
**Vote 12-8.**

Original: House Clerk  
Cc: Committee Bill File

EDITH

#105

The right to vote and high voter participation is critical for our democracy. NH's tradition of both is important to protect.

The instruction language, that a judge found to require a college degree to understand, is convoluted and confusing. We heard testimony of people leaving the polls without voting.

This confusion created unnecessary barriers for citizens seeking to exercise their constitutional right to vote including the elderly, young adults, and the homeless.

NH has never had significant voter fraud issues and in fact is known for its integrity. The majority feels returning to the more straightforward process will eliminate problems created by the changes for many eligible voters and also for our hardworking election officials.

ah  
pe  
DAVID

**REGULAR CALENDAR**

**February 12, 2019**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Minority of the Committee on Election Law to which  
was referred HB 105-FN,**

**AN ACT relative to domicile residency, voter  
registration, and investigation of voter verification  
letters. Having considered the same, and being unable  
to agree with the Majority, report with the following  
resolution: RESOLVED, that it is INEXPEDIENT TO  
LEGISLATE.**

**Rep. Timothy Lang**

**FOR THE MINORITY OF THE COMMITTEE**

**MINORITY  
COMMITTEE REPORT**

Committee:	Election Law
Bill Number:	HB 105-FN
Title:	relative to domicile residency, voter registration, and investigation of voter verification letters.
Date:	February 12, 2019
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

**STATEMENT OF INTENT**

The basis for this bill is to undo all the changes to the election laws created by SB 3, which was signed into law in 2018. These changes in election law are currently under judicial review by way of a lawsuit. By proceeding forward with this bill, repealing those changes, this issue becomes a political football, to be tossed around by the party in the Majority. The minority of the committee believes we should let the court case(s) play out, let the courts come down with a judicial ruling, then if needed, submit a bill; but let's not play political games with citizen's voting rights today.

Rep. Timothy Lang  
FOR THE MINORITY

Original: House Clerk  
Cc: Committee Bill File

## REGULAR CALENDAR

### Election Law

**HB 105-FN**, relative to domicile residency, voter registration, and investigation of voter verification letters. **INEXPEDIENT TO LEGISLATE.**

Rep. Timothy Lang for the **Minority** of Election Law.

The basis for this bill is to undo all the changes to the election laws created by SB 3, which was signed into law in 2018. These changes in election law are currently under judicial review by way of a lawsuit. By proceeding forward with this bill, repealing those changes, this issue becomes a political football, to be tossed around by the party in the Majority. The minority of the committee believes we should let the court case(s) play out, let the courts come down with a judicial ruling, then if needed, submit a bill; but let's not play political games with citizen's voting rights today.

Original: House Clerk  
Cc: Committee Bill File

**Merrill, Donna**

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**From:** Lang, Timothy  
**Sent:** Thursday, February 14, 2019 8:25 AM  
**To:** Cote, David; Merrill, Donna; Kathy Hoetzel  
**Subject:** HB105 Calendar Blurb

HB 105 - Relative to domicile, residency Minority Recommendation: ITL

Rep Timothy P. Lang for the minority of the committee - The basis for this bill is to undo all the changes to the election laws created by 2017 - SB3, which was signed into law in 2018. These changes in election law are currently under judicial review by way of a lawsuit. By proceeding forward with this bill, repealing those changes, it turns this issue into a political football, to be tossed around by the party in the Majority. The minority of the committee believes we should let the court case(s) play out, let the courts come down with a judicial ruling, then if needed, submit a bill, but let's not play political games with citizen's voting rights today.

--  
-Tim

*Go for David*

Sincerely,

Timothy P. Lang Sr.  
State Representative, Belknap 4, Seat 3-68  
Election Law Committee  
State GOP Committee Member  
Sanbornton Town Moderator  
Sanbornton ZBA Chairman  
140 Upper Smith Road  
Sanbornton, NH 03269  
603-566-9802 - Cell  
<https://www.facebook.com/tlangsr> - Facebook

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# Voting Sheets



OFFICE OF THE HOUSE CLERK



1/14/2019 3:16:37 PM  
Roll Call Committee Registers  
Report

2019 SESSION

Election Law

Bill #: 105-FN Motion: OTP AM #: \_\_\_\_\_ Exec Session Date: 2/12/19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Cote, David E. Chairman	12		
Moynihan, Wayne T. Vice Chairman	1		
Ward, Gerald W.R.	2		
Pearson, William A.	3		
DesMarais, Edith M. Clerk	4		
Komi, Richard N.	5		
Bergeron, Paul R.	6		
Sandler, Catt	7		
Hamer, Heidi M.	8		
Higgins, Peg	9		
Lane, Connie B.	10		
<del>Morrill, David J.</del> <u>Mary Espita</u>	11		
Hoelzel, Kathleen M.		1	
Gay, Betty I.		2	
Lang, Timothy P.		3	
Prudhomme-O'Brien, Katherine T.		4	
Hayward, Peter T.		5	
<del>Merlino, Timothy A.</del> <u>Erin Hennessy</u>		6	
<del>Owens, Becky A.</del> <u>Jim Feolte</u>		7	
Rooney, Abigail G.		8	
<b>TOTAL VOTE:</b>	<b>12</b>	<b>8</b>	

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON HB 105-FN

**BILL TITLE:** relative to domicile residency, voter registration, and investigation of voter verification letters.

**DATE:** January 10, 2019

**LOB ROOM:** 308

**Time Public Hearing Called to Order:** 2:40pm

**Time Adjourned:** 4:10pm

Committee Members: Reps. Cote, Moynihan, DesMarais, Ward, W. Pearson, Komi, Bergeron, Sandler, Hamer, Higgins, Lane, Morrill, Hoelzel, Gay, Lang, Prudhomme-O'Brien, Hayward, Merlino, Owens and Rooney

Bill Sponsors:

Rep. Horrigan

Rep. W. Pearson

Rep. Frost

Rep. Spang

Rep. Mulligan

Rep. Berch

Rep. Kenney

Rep. Read

Rep. Cohen

Sen. Hennessey

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

**Rep. Horrigan:** Recent laws have issues – extra complicated procedures for registration procedure. This over turns SB3.

**Q. Rep. Bergeron** – page 4, line 16, does the bill only refer to general elections?

A. Not the intention. Will need clarification.

\***Liz Tentarelli**, League of Women Voters. This will reverse SB3. First sentence of SB3 is 106 words long. It is extremely confusing. Forms and instructions must be re-written in easily understandable language. Support the repeal of SB 3.

**Rep. Cam Kenney:** Was from Massachusetts, a student at UNH – graduated and stayed in NH. Now he is a Durham Representative. Supports the bill.

**Q. Prudhomme O'Brien:** If you could go back, would you have been discouraged from voting?

A. No, but should not be burdened because of false voter fraud allegations.

**Q. Rep. Lang:** Are we taking away verification?

A. No, the issue is reacting to a false voter fraud impression.

**Q. Barbara Griffin:** Would like us to retain the bill until results of litigation are out.

Investigation and follow up are an important part of the bill. #318 research about “investigation process and authority” between the SOS and DOJ. Requests we go to the history. Not aware of any problems at the polls in the last elections. Feels change makes the situation worse. Statistically controlled poll showed majority of NH people support eligibility control. Look at documentation to be sure important and required items aren't lost.

**Q. Rep. Moynihan** Judicial branch may be waiting for us?

A. Yes

**Q. Rep. Moynihan:** Isn't it our duty to act on bills before us?

A. Yes

**Henry Klemertowitz**, NHACL Union: Two issues. Those who register 30 days before and 30 days after are treated differently. In Form B, the average sentence length is 72 words. Court testimony said a person needs a college degree to understand it. Long lines would be caused.

**Q. Rep. Lang:** Why would language be removed? Page 5 – why strike language that is just clarifying.

A. Feels may be redundant to a phrase before. Feels a simple explanation would be better.

**Q. Rep. Lane:** Can you share how long the litigation could go?

A. Don't know, but could take up to a year. No additional motions have been made.

**Q. Prudhomme-O'Brien:** If going to the Dept. of Motor Vehicles, do you believe you will have to

fill out forms of domicile?

A. Yes

**\*Ray Chadwick:** Granite State Tax Payers - Supports SB3 Feels is it an obligation to bring evidence of state citizenship. Believes the requirements are reasonable. Opposes HB 105

**David Scanlon, Deputy SOS:** Elections have to work for everyone. When extremes pull process back and forth it doesn't help. HB 105 repeals too much. Look at the language. Page 4, Rows 4-9 important, Page 5, rows 19-21 also important for the check list allowing the last town to remove. Page 11, line 12 & 13 deal with individual issues of concern. The verification process prior to the Attorney General comment would prefer to keep.

**Q Rep. Lang:** Does the difference between registering the day of the general election or day of other election days matter?

A. We may want to look at to stream line the process.

**Q. Rep. Lane:** How much money has been spent on SB3 defense?

A. Ask the AG office.

**Q. Rep. Lane:** Is there flexibility by the supervisor or moderator to make a difference in how the process is implemented?

A. The SOS office trains but there may be differences of judgment within the guidelines.

**Liz Webster, America Votes:** At elections there have been extremely long lines. We should focus more on making voting more accessible.

**\*Linda Rhodes:** SB3 introduced to make things harder. Times have changed. Young people are more on their own. Parents and families are more mobile – often “home” isn't where the student was raised. The last election wasn't smooth. Lines were long. Turnouts were high because people came out in protest to what has been happening in government. Rate of voter fraud in NH is 0.00013.

**\*Nancy Marashio, Newbury Town Moderator:** See attachment.

**Griffin Sinclair Wingate, Dover:** Moved because no affordable health care here or housing. Have to leave. Students have opportunity to learn about the difficulties in voting here.

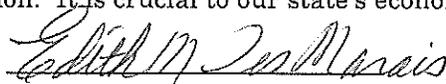
**Tristram Paloire:** NH Discouraging students rather than welcoming them. Support HB 105 to encourage young people to stay. This is why people leave.

**Dylan Carney, Mt. Washington Valley:** Young people are leaving. Need to stop blocking young people. Need to be welcoming and provide open, secure elections.

**\*Kyri Clafin:** Supervisor of Checklist Concord. See attachment.

**Quincy Abramson:** Unreasonable to ask to be here forever. Want to encourage civic engagement. Subject to our laws, so should permit participation. It is crucial to our state's economic future.

Respectfully submitted by: Rep DesMarais



HOUSE COMMITTEE ON ELECTION LAW

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ROOM: 308

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Committee Members: Reps. Cote, Moynihan, DesMarais, Ward, W. Pearson, Komi, Bergeron, Sandler, Hamed, Higgins, Lane, Morrill, Hoelzel, Gay, Lang, Prudhomme, O'Brien, Hayward, Merlino, Owens and Rooney

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Rep. Mulligan  
Rep. Read

Rep. Frost  
Rep. Berch  
Rep. Cohen

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① Horrigan

Recent laws have issues - extra complicated procedures for follow-up over turning SB3

? Rep Bergeron - pg 4 line 16 - does bill only refer to general elections?

(A) Not the intention - will need clarification

② \* Liz Tentavilli League of Women Voters

Reverse SB3 First sentence 106 words long

Extremely confusing. Form instructions must be re-written in easily understandable language

Suggests repeal of SB3

(3) Rep. Con Kenney

Was student USA - graduated & stayed here.  
from MA

Now a Durham Representative.

? P. Mahon O'Brien

If you could go back would you have been discouraged.

No, but should not be a burden because of false voter fraud

(4) ? Rep. Long

Are we taking away verification?

(+) No. the issue is reacting to a false voter fraud impression.

(4) Barbara Stiffin

Would like us to retain bill until results of litigation. Investigation & follow-up important part. 318 research about "investigation process and authority" between SOS & DCs.

• Requests we go to the history

• Not aware of any problems at polls in last elections

• Feels change makes situation worse.

• Statistically controlled poll showed majority of 114 people support eligibility control.

• Look at documentation to be sure important some required

? Manahan

Judicial may be waiting for us. Yes

Duty to act on bills before us - Yes

Henry Clinto NAACP Union

Klemertowitz

Two issues

Those who register 30 days before + 30 days after  
Form B average sentence length 7.2 words

Testimony needs college degree to understand

Long lines would be caused

More people would be disenfranchised than  
any level of voter fraud.

? Lang

Why would language removed for

page 5. Why strike language that just clarifying  
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\* Ray Chadwick

Support SB3 - Granite State Tax Payers  
Obligation to bring evidence.

believe reasonable requirements

oppose HB105

(4)

David Scanlon SOS

Elections have to work for everyone.  
When extremes pull process back & forth  
HB105 repeats too much

Look @ language

pg 4 Row 4-9 Important

5 Row 19-21 Important for voter check list  
allowing last town to remove

Pg. 11 Rows 12 & 13

Deal with individual issues of concern.  
Verification process prior to A.G. would  
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? Lang - does difference between registering  
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Answer - We may want to look at to  
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By Walter America Votes

at elections - extremely long lines. We  
should focus more on making voting more  
accessible

\*Linda Rhodes

SB3 Introduced to make things harder

(3)

(5)

Rhody - cont.

Times have changed. Young people more on own. Parents & families are more mobile - often "home" isn't where student was raised.

Last election wasn't smooth. Lines were long.

Turn outs high because people came out in protest to what has been happening in government.

Rate voter fraud 0.00013 in NH

\*Nancy Marashio Newbury Town moderator

Guffin Sinclair Wingate

Down  
Moved <sup>because</sup> no affordable health care here, housing have to leave.

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Discouraging students rather than welcoming support 105 to encourage young people to stay. Why young people ~~leave~~

Dylan Carney Mt Washington Valley

Young people leaving. Need to stop blocking young people. Need to be welcoming and provide open, secure elections

\*<sup>Kyri</sup>~~Caitie~~ Claplin

Supervisor of checklist Concord

Quincy Abrahamson

Unreasonable to ask to be governor  
Want to encourage civic engagement  
Subject to all laws - so should permit participation  
Crucial to our state economic future

# SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 105-FN Date 1-10-2019

Committee Election Law

\*\* Please Print All Information \*\*

Name	Address	Phone	Representing	(check one)	
				Pro	Con
Sen James Gray		584			<input checked="" type="checkbox"/>
Rep Marybeth Mulligan	Grafton #12		Haverhill/Lyme	<input checked="" type="checkbox"/>	
Sen Thayer	Derry NH		self	<input checked="" type="checkbox"/>	
Jan Scheffer	Warner NH		self	<input checked="" type="checkbox"/>	
Maura Whiting	Concord NH		self	<input checked="" type="checkbox"/>	
Liz-Anne Platt	Concord NH		self	<input checked="" type="checkbox"/>	
Elizabeth Willing	Concord NH		self	<input checked="" type="checkbox"/>	
Mary Wilke	Concord NH		self	<input checked="" type="checkbox"/>	
Rep Christy Doherty	Beverly Merrimack 19			<input checked="" type="checkbox"/>	
Andrew Capen	Nashua NH		self	<input checked="" type="checkbox"/>	
Rep Garrett Muscatel	Haver (Gutter 12)		self	<input checked="" type="checkbox"/>	
Judy Stadtman	Portsmouth	603 479 7217	self	<input checked="" type="checkbox"/>	
Rep Liz McConell	Brentwood	770-3883	self	<input checked="" type="checkbox"/>	
Ray Chawick	101 POWERS STREET BETHLEHEM MASS		Gauley Mills Maryland		<input checked="" type="checkbox"/>
Rep Cole Riel	Goffstown		self	<input checked="" type="checkbox"/>	
Melissa Bernardin	Concord NH	03301	self	<input checked="" type="checkbox"/>	
Maurcen Ellermann	Concord NH		self	<input checked="" type="checkbox"/>	
SUSAN COVERZ	CONTOOCCOOK - NH		self	<input checked="" type="checkbox"/>	
Elizabeth Coe	Concord		self	<input checked="" type="checkbox"/>	
Kyr. Clafin	Concord NH		self	<input checked="" type="checkbox"/>	
Sara Smith	Pembroke NH		self	<input checked="" type="checkbox"/>	
Deborah Opreamolla	Rindge NH			<input checked="" type="checkbox"/>	
Tom Loughman	Hampson NH		self	<input checked="" type="checkbox"/>	

# SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 105 Date \_\_\_\_\_  
 Committee \_\_\_\_\_

\*\* Please Print All Information \*\*

Name	Address	Phone	Representing	(check one)	
				Pro	Con
Jeff Taylor	Mondroster, NH		Self	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Josie Pinto	Concord, NH		Self	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GREG INDRUK	NASHUA, NH		SELF	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep Deb Hobson	E. Kingston		Self	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep David Love	Derry		Derry	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep Charles & Chels			Newton	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Shaye Weldon	Concord		NH & D	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amelia Keane	Washua		NH & D	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kat Legler	Campton		NH & M	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bruce Cohn	Nashua		Hillsborough 28	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Linda Rhode	151 Duham Pt Rd Durham		Self	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Joseph Kuzbicki	54 Pleasant St, Concord, NH		Self	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep PAUL BERCH	WESTMORELAND, NH		CHESHIRE-01	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sally Hatch	233 Hopkinton Rd		Self	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cheri Falk	724 ISAAC Fryn Hwy W. Han		W. Han Recreation	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DAVID O. HUET	19 Waldwood Rd		Coconia Belknap	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Susan Richman	16 Cowell Dr		Durham self	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kathy Cahill	12 Holt St Concord NH		self	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DAVID McConville	E 49 County Rd Amherst		EST	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Louise Spencer	3 Kent St Concord		Self	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Margaret Dye	PO Box 3 Plainfield NH		self	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep Al Baldasaro			Lowdownerry	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sally C. Embley	Webster NH 03303		LWVNH	<input checked="" type="checkbox"/>	<input type="checkbox"/>

# SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 105 Date 1-10-2019  
 Committee EL

\*\* Please Print All Information \*\*

Name	Address	Phone	Representing	(check one)	
				Pro	Con
Rep Dick Hinch	House Republican office				✓
<del>REP JOHN POTUCEK</del>	<del>ROCK G.</del>				* (initials)
Alvin See	Loudon	798-3427	Self		✓
Rep. William Marsh			Carroll &		X
Darryl W Perry			Liberty Lobby LLC	✓	
Mary Till				✓	
Timothy McKeown	Concord	660-0438	Grants State Progress	✓	
Gale Taylor	16 Sagarwood Ct		Concord NH Self	✓	
Kerry L Clock	P.O. Box 134	603-242-0090	Canterbury, NH RAD NH	✓	
James White	4th Gibson Rd		Hudson NH		✓
<del>REP BOB GREENE</del>	<del>HUDSON</del>	<del>521-2016</del>	<del>SECS</del>		✓
Roy Herdred	Nuziz				✓
REP Cam Kenney			Shutters OG	✓	
Catherine Corkery	NH Sierra Club	40 N Main	Concord 224-8222	X	
Rep Mike Sylva			Belknap Co		✓
Rep Samantha Fox			Bow NH Merr. 23	✓	
Dennis Julawski				✓	
Deborah Jakubowski			Loudon NH	✓	
STEFAN MATTLAGE			CONCORD NH		
Ruth Waed			Sen. district 8		✓
Sen Regina Driscoll			SD #19		✓
Rhobe Stone	224-440-0451		Manchester, NH 03102	✓	
S Mary Ellen Foley	PSM		Sisters of Mercy NH	✓	



# Testimony

Chairman Cote and Members of the Committee,

For the record, my name is Liz Wester, State Director for America Votes, a nonprofit organization that works to expand access to the ballot, coordinate issue advocacy and election campaigns, and protect every American's constitutional right to vote. I am here today to urge the committee to vote ought to pass on HB 105, a repeal of SB 3 from 2017. America Votes opposed SB3 because it creates longer lines on election day by creating confusion both on election day and leading up to election. We also firmly believe that the fines levied in SB3 could easily deter eligible voters who do not want to miss a deadline and end up costing themselves upwards of \$5,000, a penalty that could financially prohibitive for most Granite Staters.

This past year, SB3 was litigated in the courts and two separate judges agreed that the law would be harmful to eligible Granite State voters. In Superior Court Judge Kenneth Brown's ruling on SB3 state that SB3 "would have a negative impact for certain groups of people" not just young adults but also anyone experiencing insecurity or homelessness. In addition, the judge correctly pointed out that "voter fraud is not widespread or even remotely commonplace" and even if it were SB3 "does nothing" to prevent it. He follows to say "instead of combating fraud, the law simply imposes additional burdens on legitimate voters."

The courts have stated the truth about SB3: It is a law that would do substantially more harm than good. We firmly continue to believe that our elections process should be secure and will look for the proponents of this bill to join in protecting our elections by improving our election security and updating our registration process using secure and modern registration technology.

Thank you for you time,

Liz Wester  
America Votes State Director

Testimony, Kyri Claflin  
(109 Reserve Place, Concord)  
Election Law, HB105 Hearing, 1/10/19

Thank you Mr. Chairman, members of the committee. My name is Kyri Claflin and I'm a resident of Concord. I'm here today in my capacity as a Supervisor of the Checklist in Ward 5 in Concord. I wanted to tell you about an experience I had in my ward on the most recent election day, an incident that I find poignant and have thought of often since November 6. I appreciate this opportunity to share the story with you.

First, please allow me to describe my experience registering voters in New Hampshire. The Supervisors of the Checklist in Concord are responsible for registering new voters and taking care of other registration needs (such as address or name changes) on election day. As a Supervisor of the Checklist, I registered voters in two elections in Concord in 2018. I also served as a deputy registrar for two elections in Manchester in 2017. All four elections took place after SB3 went into effect. I had in-person training twice led by JoAnn Ferrulo, the assistant city clerk in Manchester, and I also attended the first training session that the Secretary of State's office held when SB3 went into effect. That was led by Attorney Bud Fitch, Assistant Secretary of State Dave Scanlon, and Assistant Attorney General Anne Edwards. Before the 2018 elections, I refreshed my memory with my notes from the Manchester training sessions and with the N.H. Election Procedure Manual: 2018-2019, which I was given when I became a Supervisor of the Checklist. I was familiar with the law and with the registration forms. Having never registered voters before SB3 was law, I did not have prior experience with different forms or requirements and thus had no old habits to break. All this is to say that I am confident that I was able to competently and appropriately lead people through the registration process.

Now to my story and the reason I am here today. On November 6, a young woman came into the Ward 5 polling place with two companions. She needed to register and she came over to my table while her companions voted. The young woman, she was perhaps 20 or 22 years old, had not come with any proof of domicile. I registered her according to requirements of SB3. She read the back of the registration form slowly and seemed confused — the back is the affidavit swearing that she did indeed possess proof of domicile. It was certainly not the first time that form confused people I had worked with. (Parenthetically, I have a PhD, and I find the language on the parts of the forms pertaining to SB3 requirements confusing.) It is possible that this particular person had some minor developmental delays or reading comprehension problems. I explained to her what she was swearing to and that she could vote that day. I pointed out that she needed to provide the town clerk with proof of domicile within 10 days, either by mail or in

person. I gave her the printed form that listed all the possible the things she could use for that purpose, and we talked briefly about what she might have that would work.

After the young woman's registration was finished, I thought she took the form in the direction of the ballot clerks, where I directed her. At that point I attended to something else. A few minutes later I looked up to see the young woman leaving the polling place with her registration form in her hand. I remarked to one of the other Supervisors how odd that seemed. The other Supervisor went after her to ask whether something was wrong. The young woman told her she didn't think she was allowed to vote. My colleague explained to her that she could vote, and she then came back into the polling place and voted.

I've seen other voters trying to register throw up their hands and balk at the cumbersome proof of domicile requirements, but this was the first time I had the experience of someone failing to comprehend that they were allowed to vote. My impression from this episode is that for all the law's faults, to me the most disheartening one is that SB3 appears to be discriminatory for the many eligible New Hampshire voters who have less than optimal reading comprehension skills. This is probably an unintended consequence, but that doesn't lessen the disenfranchising effects — or potential — of this law. I urge you to vote yes on HB105.

Thank you for your time.

1297 Route 103  
Newbury New Hampshire 03255  
January 9, 2019

Re: HB 105-FN – relative to domicile residence, voter registration, and investigation of voter verification letters

To: Chair David Cote and members of the House Election Law Committee

Almost two years ago Newbury election officials – Selectboard, Supervisors of the Checklist, and Moderator – unanimously submitted testimony urging rejection of SB 3. Today we urge swift passage of the corrective HB 105-FN.

My greatest concern about SB 3 was that it was contrary to our NH Constitution, the Constitution NH officials take an oath to support. The New Hampshire Constitution promises that “every inhabitant of the state of 18 years of age and upwards shall have an equal right to vote in any election.” Every voter’s signature on the registration form had been a swearing that the information on the form was correct.

What unequal treatments did SB 3 impose on voters who register within 30 days of election or on election day? They include

- . “presumed to be present for temporary purposes”
- . processed differently, with different forms and verification procedures
- . potentially removed from the voter checklist if they do not provide required documentation after the election
- . required to provide a written statement signed by a person listed on ownership of property document if voter has no other evidence of domicile (the word of another is more acceptable than the word of the voter)
- . verified through visits by two or more municipal officers or their agents to the declared domicile
- . be subject to additional criminal or civic penalties

HB 105-FN eliminates those inequalities and returns to a registration process where all voters share the same requirements, no longer targeting voters who change residence or who choose to legally register on election day. HB 105 returns to the Constitutional equity for every New Hampshire voter who has “an equal right to vote in every election.”

  
Nancy Marashio, Moderator  
Town of Newbury

# **GRANITE STATE TAXPAYERS**

**Election Law Committee**

**HB105 & HB 106 Hearings**

**January 10, 2019**

## **GRANITE STATE TAXPAYERS**

Granite State Taxpayers, is non-partisan, non-profit with a Mission to inform, educate and motivate New Hampshire taxpayers and to lobby the legislature on their behalf. We advocate for low taxes, balanced budgets, frugal, limited government that works within its constitutional authority, and local control.

Granite State Taxpayers has studied election law and advocated for improvements for over 5 years. Informed voters acting through the ballot box provide a check on government. That relies on voters having to live with the legislators and governance they elect. Accountability is undermined when people who do not actually have to live with the results of an election can vote and affect the outcome.

Election law should ensure that only *bona fide* New Hampshire resident voters can exercise the right to vote in the state. No New Hampshire voter should have their vote cancelled by an out-of-state voter. The integrity of the voting process requires that laws protect against that potential.

The status of current New Hampshire election law, along with various court decisions and interpretations, gives rise to several practices illustrating a lack of integrity.

## **WHAT WE ARE TRYING TO ACHIEVE**

A revision of New Hampshire voter law to make our voting system simple to understand and execute, resistant to fraud, and available exclusively to residents of New Hampshire

## **WHAT IS THE ISSUE WITH CURRENT LAWS**

People are able to vote without presenting any identification or proof of US citizenship.

People are able to vote without being a resident (or proving that they are) in New Hampshire.

Known residents of other states are able to vote in New Hampshire and affect our elections.

**New Hampshire is unique in the country in allowing people to vote who are residents of other states.**

**New Hampshire is unique in allowing people to vote here without documenting a presence in state.**

## **PROGRESS MADE IN 2017 – 2018 LEGISLATIVE SESSION**

HB 1264 established equivalency between Domicile and Residency, consistent with prior Court rulings

Defined residency so as to close the loophole allowing residents of other states to vote here

Found constitutional (a compelling State interest) by the NH Supreme Court

Effective date mid 2019

Subject to challenge after taking effect

SB 3 requires registrants to provide documentation showing a presence in state

Obligated registrants to provide proof of presence, established sanctions for failing to do so

Voting still allowed with affidavits as an alternative to providing proof of domicile at polls

Grace period of 10 to 30 days after the election to bring proof of domicile

Involved in a court challenge due to lawsuit brought by NH Democratic Party

**Granite State Taxpayers Opposes Bills to Eliminate the Reforms of Senate Bill 3 and House Bill 1264.**

House Bills 105 would overturn the reforms of SB 3 and HB 106 would overturn the reforms of HB 1264.

**Arguing against HB 105 and HB 106 requires presenting and defending changes in SB 3 and HB 1264.**

# GRANITE STATE TAXPAYERS

Election Law Committee

HB105 & HB 106 Hearings

January 10, 2019

## HB 105 would overturn the changes effected in SB 3

**SB 3 required registrants to provide documentation showing a presence in state.**

SB 3 requires voters to provide documentation that they are domiciled in New Hampshire. It provides a mechanism for following up on voters who are unable to provide such documentation in a timely manner, and penalties for those who fail to provide the required documentation.

**Requiring voters be *bona fide* residents, and prove that they are, is common in other states.**

The United States Supreme Court, in *DUNN v. BLUMSTEIN*, March 21, 1972, stated: *"We have in the past noted approvingly that the States have the power to require that voters be bona fide residents of the relevant political subdivision."*

Requiring residency, and providing proof thereof, is the expectation in 49 other states and the District of Columbia. Of those, 47 states and the District of Columbia require proof of duration of actual residency before being able to vote. Of those jurisdictions, 27 require 30 days of residency.

**New Hampshire is unique in allowing people to vote here without documenting a presence in state.**

Massachusetts requires registrants to document residency with proof of their name and address. They must present proof of residency before the polls close in order to vote. The illegal registration penalty is *"a fine of not more than ten thousand dollars or by imprisonment for not more than five years, or both."*

**Today in New Hampshire, domicile, and the right to vote, is based upon intent, defined by registrants.**

Currently, individuals can vote in our elections by merely asserting they are domiciled here without proving they live in New Hampshire and in the voting precinct where they want to vote. The registrant presently has no obligation to provide proof of actualizing that intent.

Follow up on whether people actually move here after registering to vote in the state is nearly non-existent. Except for double voting, prosecuting for voter fraud is impossible due to the practical inability to prove intent or the lack thereof. ("When I voted, I planned to move here but I changed my mind.")

**SB 3 shifts responsibility in proving one's domicile back to the registrant.**

Prior to SB 3, those who do not show proof of domicile have no obligation to provide it, and can vote by signing an affidavit. Voters are able to cast their ballot without proving that they live here.

**SB 3 doesn't prevent anyone from voting, but requires they subsequently document eligibility.**

Under SB 3, if someone can register and vote on the same day of the election without proof of their domicile, but they are then required to return to the Town Clerk's office within a period of 10 or 30 with their proof of domicile. Those who do not return to the clerk's office with the proper proof of domicile will have their domicile verified through a series of municipal level inquiries and rising to investigations through the Attorney General's office if the issue is not resolved at a lower level.

SB 3 provides penalties for those who do not provide the required proof of their presence in state, including a \$5,000 fine for voting illegally. This penalty is not unusual, as Massachusetts and Vermont each carry a \$10,000 fine and up to five and 15 years in jail for illegal voter registration.

## Granite State Taxpayers Opposes HB 105

# GRANITE STATE TAXPAYERS

Election Law Committee

HB105 & HB 106 Hearings

January 10, 2019

## HB 106 would overturn the changes effected in HB 1264

**HB 1264 defined residency to close the loophole allowing residents of other states to vote here.**

HB 1264 rectified issues in current law that enables non-residents to vote and hold office in New Hampshire. HB 1264 clarified definitions of the terms "resident," "inhabitant," "residence," and "residency." in state law. It eliminates the phrase "for the indefinite future," enabling a residency requirement compliant with previous court decisions.

**Requiring voters be *bona fide* residents, and prove that they are, is common in other states.**

The United States Supreme Court, in DUNN v. BLUMSTEIN, March 21, 1972, stated: *"We have in the past noted approvingly that the States have the power to require that voters be bona fide residents of the relevant political subdivision."*

Requiring residency, and providing proof thereof, is the expectation in 49 other states and the District of Columbia. Of those, 47 states and the District of Columbia require proof of duration of actual residency before being able to vote. Of those jurisdictions, 27 require 30 days of residency.

Maine, Massachusetts, and Vermont all require first-time voters to show identification in order to vote. Massachusetts requires registrants to document residency with proof of their name and address. They must present proof of residency before the polls close in order to vote. The illegal registration penalty is *"a fine of not more than ten thousand dollars or by imprisonment for not more than five years, or both."*

**HB 1264 provides equal protection under law**

The Constitution guarantees the right to vote, and not to have the votes by validly registered voters negated. The 14th Amendment provides that representation is based upon census and that no person's vote should be less effective than another person. Currently, certain groups are accorded the privilege of voting alongside New Hampshire residents, but at the same time, being non-residents, they are freed from undertaking the obligations to the State that are expected from New Hampshire residents.

HB 1264 provides that all voters in New Hampshire must meet the expectations of residency and domicile as established under the New Hampshire Constitution, and could be obliged to present proof that they meet those requirements.

**On July 12, 2018, the Supreme Court issued their Opinion finding House Bill 1264 to be constitutional.**

*"The fundamental issue posed by the questions submitted is whether the State or Federal Constitution requires the State of New Hampshire to permit persons to vote in this state who seek to claim residency here only for voting purposes while eschewing this status for other purposes. We have no hesitancy in opining that not only does New Hampshire have no such constitutional obligation but, quite the contrary, it has a compelling state interest not to do so."*

**HB 1264 makes election law more easily understood**

The current body of statute and case law is incomprehensible to average voters.

The ability of people to vote here with out of state licenses is particularly problematic.

This lower perception of integrity reduces voter commitment and faith in election results.

# GRANITE STATE TAXPAYERS

Election Law Committee

HB105 & HB 106 Hearings

January 10, 2019

**New Hampshire is unique in the country in allowing people to vote who are residents of other states.** While an out of state driver's license provides proof of identity, it also proves residency in another state.

The Secretary of State reported that, in 2016, 6,540 people used an out of state driver's license to register to vote in New Hampshire. Not all were people who just moved and were not yet able to get a New Hampshire license. Of that total, 491 used an out of state driver's license to change registration from one town to another town within New Hampshire, and 146 people used an out of state driver's license to re-register on the voter rolls after being previously removed.

Detailed information from the Secretary of State supporting that summary showed that in 2016, out of 5,903 new registrants using out-of-state drivers' licenses, 2,246 of those used a Massachusetts license. Obtaining a Massachusetts driver's license requires proving residency with documentation showing an address in Massachusetts. Consequently, 2,246 persons registered to vote in New Hampshire in 2016 by using a Massachusetts driver's license proving they were actually residents of Massachusetts.

**Requiring that students be residents in order to vote is common in other states.**

New Hampshire statutes (Title LXIII, Chapter 654:1, I-a) provide that *"a student of any institution of learning may lawfully claim domicile for voting purposes in the New Hampshire town or city in which he or she lives while attending such institution."*

Other states require students to declare residency or domicile in order to vote. For example, a student can vote in Maryland if it is *"the place that you consider to be your 'official' or 'permanent' home."*, *"the address you use most frequently on tax returns or other government documents, driver's license, bank accounts, and so forth."*

**HB 1264 will not disenfranchise voters**

Requiring that New Hampshire voters must be *bona fide* residents of the state will not disenfranchise anyone. The same requirement when applied in other states has not been perceived as disenfranchising their voters. A variety of organizations offer guidance and assistance in how and where to vote. Internet access and State voter websites make the process of absentee voting simple. Federal law provides a period for people moving to vote absentee in their prior district. Those temporarily in New Hampshire (including students) are able to vote absentee.

**HB 1264 does not constitute, create or implement a poll tax**

HB 1264 makes residency a pre-requisite for voting in New Hampshire. Residency exposes one to subsequent obligations (licenses, taxes) by statute, but none of those requirements are conditions precedent to registering to vote. Since current residents of New Hampshire are not subject to any poll taxes, neither could newly registered voters be.

## Granite State Taxpayers Opposes HB 106

1297 Route 103  
Newbury New Hampshire 03255  
January 9, 2019

Re: HB 105-FN – relative to domicile residence, voter registration, and investigation  
of voter verification letters

To: Chair David Cote and members of the House Election Law Committee

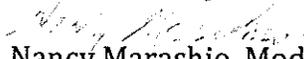
Almost two years ago Newbury election officials – Selectboard, Supervisors of the Checklist, and Moderator – unanimously submitted testimony urging rejection of SB 3. Today we urge swift passage of the corrective HB 105-FN.

My greatest concern about SB 3 was that it was contrary to our NH Constitution, the Constitution NH officials take an oath to support. The New Hampshire Constitution promises that “every inhabitant of the state of 18 years of age and upwards shall have an equal right to vote in any election.” Every voter’s signature on the registration form had been a swearing that the information on the form was correct.

What unequal treatments did SB 3 impose on voters who register within 30 days of election or on election day? They include

- . “presumed to be present for temporary purposes”
- . processed differently, with different forms and verification procedures
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HB 105-FN eliminates those inequalities and returns to a registration process where all voters share the same requirements, no longer targeting voters who change residence or who choose to legally register on election day. HB 105 returns to the Constitutional equity for every New Hampshire voter who has “an equal right to vote in every election.”

  
Nancy Marashio, Moderator  
Town of Newbury

Testimony, Kyri Claflin  
(109 Reserve Place, Concord)  
Election Law, HB105 Hearing, 1/10/19

Thank you Mr. Chairman, members of the committee. My name is Kyri Claflin and I'm a resident of Concord. I'm here today in my capacity as a Supervisor of the Checklist in Ward 5 in Concord. I wanted to tell you about an experience I had in my ward on the most recent election day, an incident that I find poignant and have thought of often since November 6. I appreciate this opportunity to share the story with you.

First, please allow me to describe my experience registering voters in New Hampshire. The Supervisors of the Checklist in Concord are responsible for registering new voters and taking care of other registration needs (such as address or name changes) on election day. As a Supervisor of the Checklist, I registered voters in two elections in Concord in 2018. I also served as a deputy registrar for two elections in Manchester in 2017. All four elections took place after SB3 went into effect. I had in-person training twice led by JoAnn Ferrulo, the assistant city clerk in Manchester, and I also attended the first training session that the Secretary of State's office held when SB3 went into effect. That was led by Attorney Bud Fitch, Assistant Secretary of State Dave Scanlon, and Assistant Attorney General Anne Edwards. Before the 2018 elections, I refreshed my memory with my notes from the Manchester training sessions and with the N.H. Election Procedure Manual: 2018-2019, which I was given when I became a Supervisor of the Checklist. I was familiar with the law and with the registration forms. Having never registered voters before SB3 was law, I did not have prior experience with different forms or requirements and thus had no old habits to break. All this is to say that I am confident that I was able to competently and appropriately lead people through the registration process.

Now to my story and the reason I am here today. On November 6, a young woman came into the Ward 5 polling place with two companions. She needed to register and she came over to my table while her companions voted. The young woman, she was perhaps 20 or 22 years old, had not come with any proof of domicile. I registered her according to requirements of SB3. She read the back of the registration form slowly and seemed confused — the back is the affidavit swearing that she did indeed possess proof of domicile. It was certainly not the first time that form confused people I had worked with. (Parenthetically, I have a PhD, and I find the language on the parts of the forms pertaining to SB3 requirements confusing.) It is possible that this particular person had some minor developmental delays or reading comprehension problems. I explained to her what she was swearing to and that she could vote that day. I pointed out that she needed to provide the town clerk with proof of domicile within 10 days, either by mail or in

person. I gave her the printed form that listed all the possible the things she could use for that purpose, and we talked briefly about what she might have that would work.

After the young woman's registration was finished, I thought she took the form in the direction of the ballot clerks, where I directed her. At that point I attended to something else. A few minutes later I looked up to see the young woman leaving the polling place with her registration form in her hand. I remarked to one of the other Supervisors how odd that seemed. The other Supervisor went after her to ask whether something was wrong. The young woman told her she didn't think she was allowed to vote. My colleague explained to her that she could vote, and she then came back into the polling place and voted.

I've seen other voters trying to register throw up their hands and balk at the cumbersome proof of domicile requirements, but this was the first time I had the experience of someone failing to comprehend that they were allowed to vote. My impression from this episode is that for all the law's faults, to me the most disheartening one is that SB3 appears to be discriminatory for the many eligible New Hampshire voters who have less than optimal reading comprehension skills. This is probably an unintended consequence, but that doesn't lessen the disenfranchising effects — or potential — of this law. I urge you to vote yes on HB105.

Thank you for your time.

January 10, 2019  
Testimony on SB3

I am here to comment on the legislation passed last year, SB3, which has been the subject of a lawsuit (League of Women Voters of NH et al v. William M. Gardner, et al). On October 22, 2018 a preliminary injunction was ordered from the Hillsborough Northern District Superior Court that spelled out the many problems and issues with this law, and the arguments used to justify it's passing. Unfortunately, the use of SB3 went ahead in the November, 2018 elections, as the injunction was deemed too close to the election to implement.

I would like to highlight a couple of the arguments in the injunction. For those of you that have not read the entire injunction, I urge you to do so. The court highlighted the burdens imposed by SB3, and points out the length and complexity of Form B, in "stark contrast" to the simplicity of the domicile affidavit that was used in previous elections. Specifically the forms are "drafted in a manner that makes them confusing, hard to navigate and comply with, and difficult to complete in a timely manner."

To illustrate this point an expert in plain language and readability testified about the forms using a readability scale of 0-100, with 100 equivalent to a comic book, and 0-30 equivalent to an article in a Harvard Law Review. The expert's analysis showed that the paragraph in "Option One" and the entire Form B both had a readability score BELOW ZERO! For the verifiable action of domicile form, the readability score was about 30 – the grade level of a reader that could understand this form would be equivalent to a first year graduate student. The court, in conclusion, stated that the "forms' language is inherently confusing or misleading."

This is not how our voter registration process should be – difficult and convoluted. Certainly NH held many elections in the past without resulting to such complicated forms.

The court also commented on the impact of this complicated form on lines at elections. Although I was not at a voting station during the elections, I have spoken to friends who were observing at the Durham polling place who attest to that very effect – long lines and discouragement among potential voters.

And why does the State think we need SB3? They talked about ensuring there is no voter fraud and "safeguarding voter confidence in the election system". In fact, the court says "it is abundantly clear to the Court that voter fraud and wrongful voting were at the center of SB3's creation and passage." The court criticizes this supposed need, saying "as documented throughout the preliminary injunction hearing and as acknowledged by the legislature, voter fraud is not widespread or even remotely commonplace." The rate of fraud for the 2016 general election (there was 1 confirmed case of voter fraud) was 0.00013% (when looking at the number of total ballots cast). Testimony showed there has been less than one case per year over the past 20 years! The court further said "none of the proponents of SB3 put forth ANY

actual evidence that the public lacks confidence in the system.” The court concluded “it is far more likely that more legitimate voters will be dissuaded from voting than illegitimate voters will be prevented.”

Clearly, after the election, when Mr. Trump falsely claimed that there was massive voter fraud in New Hampshire, the Republican dominated NH legislature saw its chance to make voting more difficult for the very people that generally vote to support the opposite party. They whipped up a made up narrative of “voter fraud” and then claimed the public were so worried about it that they had to pass SB3 to restore voter confidence in the election.

Now it is time to right that wrong. No one is asking to make illegal voting easier – we are asking that every voter that is eligible to vote in NH be allowed to do so without the excessive burden, fear and confusion that was imposed by SB3. We urge that SB3 be repealed.

Dr. Linda Rhodes  
Durham, NH 03824



AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION

New Hampshire

Statement by Henry Klementowicz, Staff Attorney, ACLU-NH  
House Election Law Committee  
House Bill 105  
January 10, 2019

I submit this testimony on behalf of the American Civil Liberties Union of New Hampshire (“ACLU-NH”)—a non-partisan, non-profit organization working to protect civil liberties throughout the state for over 50 years. House Bill 105 (“HB 105”) would rightfully roll back the changes made in 2017 by what was then Senate Bill 3 (“SB 3”), removing the unnecessary and burdensome requirements enacted by that law and since enjoined by the superior court. We respectfully urge the Committee to vote *ought to pass on HB 105*.

HB 105 repeals SB 3, which is a restrictive law that places unnecessary obstacles in the way of eligible people registering to vote. SB 3 created new documentary requirements for registering to vote, lengthy and confusing new forms, and onerous new penalties for the simple failure to return paperwork. The justifications for the law—decreasing voter fraud and promoting confidence in the election system—were found by a judge to be insufficient to permit these significant additional burdens. As a result, SB 3 was preliminarily enjoined by Judge Brown in *League of Women Voters of New Hampshire, et al. v. William M. Gardner, et al.*, 226-2017-CV-433 on October 22, 2018 because the Court found it likely that SB 3 unconstitutionally burdens the right to vote.

While a court has already put SB 3 on hold, the State continues to spend resources in the form of money and staff-hours at the Attorney General’s Office and Secretary of State’s office as the case continues through the court system including, eventually, to the New Hampshire Supreme Court. The cost and uncertainty of this litigation could be avoided if HB 105 is passed, and voting laws are restored to the pre-SB 3 procedure.

### Registering to Vote Prior to SB 3

Prior to SB 3, voters registering at town or city halls prior to Election Day, or at the polling place on Election Day, had to prove four qualifications in order to register: 1) age, 2) identity, 3) citizenship, and 4) domicile. A voter who did not have proof of one of these qualifications with them at the polling place could sign an affidavit<sup>1</sup> declaring, under the penalty of voter fraud, that they were a duly qualified voter and attesting to his or her age, identity, citizenship, or domicile. The process was essentially the same regardless of when the person registered to vote: produce the documentation if you have it, but, if you do not, sign under oath attesting to your qualifications.

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<sup>1</sup> On the date of the 2016 General Election, voters could indicate that they were attesting to the information on the voter form under penalties of voter fraud, rather than fill out a separate affidavit. This expedited process carried the same requirements for truthfulness and penalties for falsehoods as the affidavit procedure, but streamlined the process by minimizing a registrant’s need to complete redundant forms.



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### SB 3 Made the Registration Process More Confusing, Intimidating, and Time Consuming

After SB 3 was enacted, the registration process changed. Registrants were divided into two categories: those who were registering more than thirty days before an election and those registering within thirty days and on Election Day. Those in the first category, *i.e.* who seek to register more than thirty days before an election, have to present documentation proving they are domiciled in the appropriate town or ward. If such a person does not possess or bring such documentation, they will be turned away and not permitted to register to vote.

Those who attempt to register within 30 days or on Election Day without documentation of domicile are given a lengthy form and are asked to make one of two choices. The form that new registrants are given has a readability score below 0 (on a scale from 0-100), and has an average sentence length of 72 words. The ideal sentence should contain only 12-25 words, according to experts in the field of plain language. Witnesses at a court hearing on the law testified that they found the forms confusing and difficult to understand. In addition to the length and complexity of the forms, the situation in which they are used can create further problems. Those registering to vote on Election Day are asked to read and understand the form while standing at the head of a line of potentially hundreds of voter waiting their turn.

After reading the form, a person without documentation of domicile is asked to choose one of two options. The first option reads:

By placing my initials next to this paragraph, I am acknowledging that I have not presented evidence of actions carrying out my intent to be domiciled at this address, that I understand that I must mail or personally present to the clerk's office evidence of actions carrying out my intent within 10 days (or 30 days in towns where the clerk's office is open fewer than 20 hours weekly), and that I have received the document produced by the secretary of state that describes the items that may be used as evidence of a verifiable action that establishes domicile.

This option—the “document production” option—requires a new registrant to return to the clerk's office with documentation of domicile. The form does not tell a registrant whether they have 10 days or 30 days to do so. Nor does it inform the registrant that failing to return the paperwork *could result in a \$5,000 fine or a year in jail*. And the form does not tell a new registrant what to do if they return home only to discover that the documentation of domicile they were planning on using is lost, destroyed, or insufficient to prove domicile.

The second option says:



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By placing my initials next to this paragraph, I am acknowledging that I am aware of no documentary evidence of actions carrying out my intent to be domiciled at this address, that I will not be mailing or delivering evidence to the clerk's office, and that I understand that officials will be sending mail to the address on this form or taking other actions to verify my domicile at this address.

This option differs from the procedure in place before SB 3 in that only a person "aware of no documentary evidence" of domicile can attest to domicile; prior to SB 3 anyone without documentation of domicile in their physical possession when registering could attest to domicile. The option further intimidates new registrants by noting that officials may take other, unspecified actions to "verify" a person's domicile.

In addition to adding confusing and intimidating language that a new registrant must read, understand and complete, and new penalties for a simple failure to return paperwork, SB 3 also created a significant risk of longer lines. For example, assuming an average registration time of 5 minutes for those with proof of domicile, and an additional 2.5 minutes needed for those without proof, a polling place that saw 500 same-day registrants with 4 servers could expect lines of 12 minutes or more if 10% of voters lacked proof of domicile. That same polling place would have lines of over 56.9 minutes if 25% of registrants lacked proof of domicile. Using the same registration times, a polling place that saw 3,000 same-day registrants with 22 servers could expect wait times of 40.7 minutes if 10% of registrants lacked proof of domicile. If even 15% of registrants lacked proof of domicile, the line would become overloaded and effectively infinite.<sup>2</sup>

### **SB 3 was Enjoined Because a Court Ruled it Likely Unconstitutional**

On October 22, 2018, Judge Brown of the Hillsborough County Superior Court ruled SB 3 was likely unconstitutional and barred the State from enforcing it.<sup>3</sup> A copy of that decision is enclosed. The decision is thorough and provides an excellent legal analysis of the constitutional problems with SB 3.

In short, Judge Brown weighed the burdens identified above—lengthy, confusing and intimidating language and the significant possibility of longer lines—against the State's purported justifications, and found the justifications insufficient to support the law. Judge Brown first addressed the previous legislature's concerns of voter fraud and wrongful voting. In so doing, Judge Brown noted that the rate of proven, wrongful votes cast in the 2016 election was 0.00013% (one vote in 755,850). Most importantly, Judge Brown noted that SB 3 "itself does nothing to actually prevent voter fraud. Because neither option on Form B requires a registrant to provide proof of domicile prior to voting, anyone intent on casting an ineligible vote can readily do so. Therefore, instead of combating fraud, the law simply imposes

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<sup>2</sup> Because the nature of the analysis assumed that registrants would come evenly throughout the day—which is not how election officials have said accurately reflects registrants' true arrival patterns—the mathematical model *underestimates* wait times.

<sup>3</sup> Judge Temple had ruled that the civil and criminal penalties for not returning to the clerk's office within 10 or 30 days after selecting the Document Production option was unconstitutional over a year earlier in September of 2017.



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additional burdens on legitimate voters.” Judge Brown next addressed the argument that SB 3 increased voter confidence. He wrote: “Notably, despite making reference to the goal of increasing voter confidence and the integrity of the election system, none of the proponents of SB3 put forth any actual evidence that the public lacks confidence in the system” and that “there is no evidence that SB3 even accomplishes its stated goal in this regard.”

The ACLU-NH opposed SB 3 when it came through the legislature for many of the same reasons that Judge Brown imposed a preliminary injunction barring the enforcement of the law. For these same reasons today, we support HB 105 and respectfully urge members of this committee to vote *ought to pass*.

Sincerely,

A handwritten signature in black ink, appearing to read "Henry Klementowicz", is written over a horizontal line.

Henry Klementowicz  
Staff Attorney, ACLU-NH

Enclosure

THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
SUPERIOR COURT

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October 22, 2018

FILE COPY

Case Name: **League of Women Voters of New Hampshire, et al v William M Gardner, et al**  
Case Number: **226-2017-CV-00433 226-2017-CV-00432**

You are hereby notified that on October 21, 2018, the following order was entered:

RE: ORDER ON PRELIMINARY INJUNCTION

See copy of Order attached. (Brown, J.)

W. Michael Scanlon  
Clerk of Court

(923)

C: Henry R. Klementowicz, ESQ; Steven J. Dutton, ESQ; Paul Joseph Twomey, ESQ; Bruce V Spiva, ESQ; John M Devaney, ESQ; Marc E Elias, ESQ; Anne M. Edwards, ESQ; Amanda R Callais, ESQ; Anthony J. Galdieri, ESQ; William E. Christie, ESQ; Suzanne Amy Spencer, ESQ; Richard J. Lehmann, ESQ; James S. Cianci, ESQ; Bryan K. Gould, ESQ; Cooley Ann Arroyo, ESQ; Callan Elizabeth Maynard, ESQ; Uzoma Nkwonta, ESQ; Elisabeth Frost, ESQ; Christine Elizabeth Hilliard, ESQ

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.  
NORTHERN DISTRICT

SUPERIOR COURT

League of Women Voters of New Hampshire, et al.

v.

William M. Gardner, et al.

Docket No. 226-2017-CV-00433

**ORDER**

Plaintiffs have brought this action seeking to overturn legislation amending New Hampshire's voter registration process commonly known as Senate Bill 3 ("SB3"). Specifically, plaintiffs allege that SB3 violates the constitution by burdening the right to vote (Count I), contradicting the domicile qualification (Count II), violating equal protection (Count III), and being void for vagueness (Count IV). Plaintiffs have moved for a preliminary injunction to enjoin enforcement of SB3 for the upcoming midterm elections. The Court held a hearing from August 27 through September 7, 2018. Thereafter, the parties submitted requests for findings of fact and rulings of law on September 24, 2018. Upon consideration of the evidence, the parties' arguments, and the applicable law, the Court finds and rules as follows.

**Factual Background**

In 2017, thirteen Republican state senators sponsored SB3, a bill intended to amend the law to include stricter requirements for proving one's domicile when registering to vote. At the time, an individual could register to vote without presenting

any proof of his or her domicile; the voter only needed to fill out a form listing his or her domicile address and sign an affidavit swearing that the information was true and accurate. That affidavit, in its entirety, read as follows:

If this form is used in place of proof of identity, age, citizenship, or domicile, I hereby swear that such information is true and accurate to the best of my knowledge.

This form was executed for purposes of proving (applicant shall circle yes or no and initial each item):

Identity	Yes/No	_____	(initials)
Citizenship	Yes/No	_____	(initials)
Age	Yes/No	_____	(initials)
Domicile	Yes/No	_____	(initials)

(Joint Exhibit ("JE") 9.)

SB3 altered the voter registration process in two significant ways. First, it created a distinction between registrations occurring more than thirty days before an election and those occurring within thirty days and on election day. New voters who seek to register more than thirty days before an election must present documentation proving they are domiciled in the appropriate town or ward or they will be turned away. Those who seek to register within thirty days of an election or on election day are not required to have documentation with them in order to vote, but they must fill out the second page of the Voter Registration Form ("Form B").<sup>1</sup>

Form B is the second major change to the registration process. In order to prove domicile, a new voter without documentation is required to select one of two options. The first option ("Option 1") reads as follows:

I understand that to make the address I have entered above my domicile for voting I must have an intent to make this the one place

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<sup>1</sup> For ease of reference, any mention of Form B in this order refers to the second page of the form, as the first page is largely unchanged from prior years.

from which I participate in democratic self-government and must have acted to carry out that intent. I understand that if I have documentary evidence of my intent to be domiciled at this address when registering to vote, I must either present it at the time of registration or I must place my initials next to the following paragraph and mail a copy or present the document at the town or city clerk's office within 10 days following the election (30 days in towns where the clerk's office is open fewer than 20 hours weekly).

\_\_\_ By placing my initials next to this paragraph, I am acknowledging that I have not presented evidence of actions carrying out my intent to be domiciled at this address, that I understand that I must mail or personally present to the clerk's office evidence of actions carrying out my intent within 10 days following the election (or 30 days in towns where the clerk's office is open fewer than 20 hours weekly), and that I have received the document produced by the secretary of state that describes the items that may be used as evidence of a verifiable action that establishes domicile.

Failing to report and provide evidence of a verifiable action will prompt official mail to be sent to your domicile address by the secretary of state to verify the validity of your claim to a voting domicile at this address.

(JE 11.) The second option ("Option 2") states:

\_\_\_ By placing my initials next to this paragraph, I am acknowledging that I am aware of no documentary evidence of actions carrying out my intent to be domiciled at this address, that I will not be mailing or delivering evidence to the clerk's office, and that I understand that officials will be sending mail to the address on this form or taking other actions to verify my domicile at this address.

(Id.) The form also retains the balance of the affidavit used the previous year, containing the following in the lower left corner:

This form was executed for purposes of proving (*applicant shall circle yes or no and initial each item*):

Identity	Yes/No _____	(initials)
Citizenship	Yes/No _____	(initials)
Age	Yes/No _____	(initials)

(Id.)

Voters who select Option 1 are provided a separate form titled "Verifiable Action of Domicile." This form states that "[t]he following checklist shall be used as a guide for what you may use as evidence and shall be submitted to the town or city clerk along with documentation that you are required to provide." (JE 12.) It then presents a list of examples of documents that would serve as documentation proving one's domicile, only one of which is necessary to return to the clerk's office. The form must be returned with the chosen documentation "by mail or in person" within ten or thirty days as specified above.

In addition to the foregoing, SB3 also extended the existing penalties for wrongful voting set forth in RSA 659:34 to three new categories of conduct specific to SB3: (1) presenting falsified proof of domicile or verifiable action of domicile; (2) providing false information in a written statement to prove that another is domiciled at a particular address; and (3) failing to provide follow-up documentation if choosing Option 1.

SB3 passed the senate along strict party lines, and passed the house largely along party lines. Governor Sununu signed the bill into law on July 10, 2017, and it became effective September 8, 2017. Prior to the statute becoming effective, plaintiffs initiated the present lawsuit, arguing the law was unconstitutional as it would effectively suppress voter turnout. On September 12, 2017, the Court (Temple, J.) preliminarily enjoined enforcement of the criminal and civil penalties associated with SB3.

### **Analysis**

As an initial matter, defendants have repeatedly argued that plaintiffs lack standing to bring the present action. The Court disagrees. In an order issued on April 10, 2018, the Court (Temple, J.) conducted an analysis of plaintiffs' standing and

concluded that they had standing to bring this action. (See Court Index #59 at 3–9.) Following the preliminary injunction hearing, the Court finds defendants have failed to provide any justification to disturb that ruling.

Plaintiffs seek a preliminary injunction in order to prevent the use of the domicile affidavit created by SB3 in advance of a final hearing on the merits. “The granting of an injunction is a matter within the sound discretion of the Court exercised upon a consideration of all the circumstances of each case and controlled by established principles of equity.” DuPont v. Nashua Police Dep’t, 167 N.H. 429, 434 (2015). “The issuance of injunctions, either temporary or permanent, has long been considered an extraordinary remedy.” N.H. Dep’t of Envtl. Servs. v. Mottolo, 155 N.H. 57, 63 (2007). “A preliminary injunction is a provisional remedy that preserves the status quo pending a final determination of the case.” Id. (citing Kukene v. Genualdo, 145 N.H. 1, 4 (2000)). “An injunction should not issue unless there is an immediate danger of irreparable harm to the party seeking injunctive relief, and there is no adequate remedy at law.” Id. “Also, a party seeking an injunction must show that it would likely succeed on the merits.” Id. Finally, the public interest must not be adversely affected by the granting of the preliminary injunction. Thompson v. N.H. Bd. of Med., 143 N.H. 107, 108 (1998).

In order to determine the likelihood of plaintiffs’ success on the merits, the Court must determine the applicable standard of review to apply to its evaluation of SB3. “Although the right to vote is fundamental, [the Court] do[es] not necessarily subject *any* impingement upon that right to strict scrutiny.” Guare v. State, 167 N.H. 658, 663 (2015). “Instead, [the Court] applies a balancing test to determine the level of scrutiny that [it] must apply.” Id. “Under that test, [the Court] weigh[s] the character and

magnitude of the asserted injury to the voting rights sought to be vindicated against the precise interests put forward by the State as justifications for the burden imposed by its rule, taking into consideration the extent to which those interests make it necessary to burden the plaintiff's rights." Id. "Under this standard, the rigorousness of [the Court's] inquiry into the propriety of a state election law depends upon the extent to which a challenged regulation burdens the fundamental right to vote." Id. When voting rights are subject to severe restrictions, strict scrutiny applies and "the regulation must be narrowly drawn to advance a state interest of compelling importance." Id. Where restrictions are reasonable and nondiscriminatory, however, "the State's important regulatory interests are generally sufficient to justify the restrictions." Id. "Most cases fall between these two extremes." Id.

"Courts in other jurisdictions have recognized that a test similar to intermediate scrutiny applies to a voting restriction that falls between the two extremes." Id. at 666. "Our intermediate level of scrutiny requires that a challenged law be substantially related to an important government objective." Id. at 665. The State bears the burden under this level of review, and "may not rely upon justifications that are hypothesized or invented *post hoc* in response to litigation, nor upon overbroad generalizations." Id. Where a law imposes unreasonable restrictions on the right to vote, "the State must articulate specific, rather than abstract state interests, and explain why the particular restriction imposed is actually necessary, meaning it actually addresses, the interest set forth." Id.

## **I. Burdens Imposed by SB3**

The most immediately apparent characteristic of Form B, when considering its purpose, is its length and complexity. In stark contrast to the simplicity of the domicile affidavit successfully used in the 2016 general election, Form B contains hundreds of words spread over six paragraphs. As demonstrated below, SB3's forms are drafted in a manner that makes them confusing, hard to navigate and comply with, and difficult to complete in a timely manner.

### **A. Complexity of Language**

A number of New Hampshire college students testified to being confused and intimidated by the forms. Among their concerns was a general uncertainty regarding what to put on the form for their domicile address, as they all received mail at a location separate from their dormitories and did not know the physical address of their living spaces. Two witnesses noted concerns with Option 1—which states that if the registrant fails to send in appropriate documentation, official mail will be sent to the domicile address listed on the form—because students cannot receive mail at their domicile addresses. Further, a student at Dartmouth testified that during the week after the general election students will be studying for and taking finals, followed by Thanksgiving and a six-week break. In addition, she testified that many students transfer dorms after returning from winter break. Therefore, even if mail were delivered to the dormitories, it still may not reach the student. Students aware of these complications may very well be dissuaded from voting out of fear of being subject to the substantial fines that could be incurred for failing to comply with the statute.

Dr. Deborah Bosley, an expert in plain language and readability, conducted an analysis of the text of Form B, as well as the verifiable action of domicile form, utilizing four methodologies: (1) a readability test, which is an algorithm-based analysis of the grade level necessary to understand the text and ease of understanding; (2) a comparison of the existing language with best practices in plain language; (3) usability testing, which consisted of one-on-one interviews with intended users; and (4) an expert review.

Dr. Bosley's readability test scored readability on a scale of 0–100, with 100 being equivalent to a comic book, 60–70 equivalent to a local newspaper, and 0–30 equivalent to the Harvard Law Review. The results are based upon the average number of words, the number of syllables per word, the average number of words per sentence, and the number of sentences.

In performing her analysis, Dr. Bosley separately tested both Option 1 on Form B and the entirety of Form B. The tested paragraph of Option 1 consists of a single sentence containing just over 100 words. Dr. Bosley testified that the ideal sentence should contain only 12–25 words. Option 1's readability score was below 0. Form B as a whole has an average sentence length of 72 words and its reading score was also below 0. Dr. Bosley testified that the readability scores alone indicated that the forms would be incredibly difficult for the average adult to read and understand.

Dr. Bosley performed the same analysis on the verifiable action of domicile form. For the entire form, the average sentence length is 31 words, the grade level of the text was 17 (equivalent to that of a first-year graduate student), and the readability score approached 30. Dr. Bosley also tested the second to last paragraph of the form, which

instructs the reader what to do if they do not have any of the listed documents. The paragraph is 97 words long, had a grade level of 23 (equivalent to that of a doctoral candidate), and its readability score was 16.32. Therefore, as with Form B, the analysis demonstrated that the verifiable action of domicile form would be very difficult for the average adult to read and understand, as the average adult in the United States reads at an eighth grade level. Consistent with the foregoing, Dr. Bosley testified that both forms fail to meet many of the best practices in the field of plain language.

Dr. Bosley also conducted usability testing with 12 participants<sup>2</sup> consisting of 7 college students, several part-time workers, and some full-time workers, all aged between 18–29 years old. The participants found some of the forms' words or phrases confusing, such as "domicile," "verifiable action," and "democratic self-government." (See JE 43B at 198, 264, 316, 348.) The participants also found the forms difficult to navigate. (See *id.* at 193, 262–65, 316–19.) Although the State argued that Dr. Bosley prompted some of the participants with leading questions, this does not invalidate the entirety of the testing, as there are many instances of confusion recorded without any such leading questions.

In addition to the foregoing, some of the forms' language is inherently confusing or misleading. For example, although the State repeatedly described the verifiable action of domicile form as a general, non-exhaustive guideline, the form states: "To establish that you have engaged in a verifiable act establishing domicile, provide evidence that you have done at least one of the following." (JE 12.) This may lead an individual who does not have documentation that exactly matches the provided list to

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<sup>2</sup> Dr. Bosley testified that research by others in the field has indicated that 12 test subjects should result in the discovery of approximately 96% of the issues in a given document.

believe that he or she cannot comply with it. Indeed, a number of college students testified that they did not believe they had anything that met the descriptions of any item on the list. Further, multiple witnesses testified that the ultimate decision of what constitutes acceptable proof is up to the discretion of the town clerk and/or the poll worker at the polling location. Thus a new registrant could be informed at a polling location that a certain document would be sufficient, but that document could later be rejected by the town clerk when submitted. Finally, all of the foregoing confusion will only be compounded when combined with the stress of trying to understand the forms while standing at the head of a line of potentially hundreds of voters waiting their turn.

**B. Impact on Lines**

Given the increased complexity and confusion surrounding the new forms, particularly in comparison to the 2016 domicile affidavit, the average registration time is expected to increase, resulting in longer lines and delays at polling places. The Court heard testimony from Dr. Muer Yang regarding the increase in wait times that would result under SB3. Dr. Yang is a queueing expert that applied Queueing Theory to this case. Queueing Theory is a mathematical model that looks at three factors (arrival rate, service rate, and number of servers) to describe the behavior of queueing systems. For this case, Dr. Yang interviewed local election officials to obtain estimates of the average time it took to register voters in the 2016 general election. Those estimates ranged from a low of 2–3 minutes in Keene Ward 1 to a high of 5–15 minutes in Londonderry. (JE 42 T1.) Dr. Yang testified that the same officials estimated SB3 would add another 2–5 minutes per person. Using these numbers, Dr. Yang created a variety of charts demonstrating estimated wait times under SB3 assuming different variables, such as:

number of registrants, number of servers, percentage of registrants who have no proof of domicile, and additional time needed to complete Form B.

For example, assuming an average registration time of 5 minutes for people with proof of domicile and an additional 2.5 minutes needed for those without such proof, a polling place that saw 500 same-day registrants with 4 servers could expect wait times of 12 minutes if 10% of registrants lacked proof of domicile. (JE 42 T4.) Waiting times at that same polling place would reach 56.9 minutes if 25% of registrants lacked proof of domicile. (Id.) Using the same registration times, a polling place that saw 3,000 same-day registrants with 22 servers could expect wait times of 40.7 minutes if 10% of registrants lacked proof of domicile, whereas the queue would be overloaded and the line would become effectively infinite if only 15% of registrants lacked proof of domicile. (Id.)

Not surprisingly, the longer registration takes under SB3, the more drastic the increases in wait times will be as the number of registrants needing to use Form B rises. For example, assuming an average registration time of 5 minutes per person with proof of registration and an additional 5 minutes needed for those without such proof, a polling place that saw 500 same-day registrants with 4 servers could expect wait times of 12 minutes if only 5% of registrants lacked proof of domicile. (JE 42 T5.) However, wait times would increase at that same polling place to over 800 minutes if only 15% of registrants lacked proof of domicile. (Id.) A polling place that saw 3,000 same-day registrants could expect 40-minute wait times if only 5% of registrants lacked proof of domicile, and the queue would be overloaded at 10% or higher. (Id.)

Importantly, Dr. Yang cautioned that Queueing Theory has a tendency to *underestimate* wait times. This is due to the fact that the theory assumes the arrival process maintains a consistent rate, which is generally not reflected in reality. Dr. Yang testified that in voting situations, there are peaks and valleys as people arrive at irregular intervals, and variability in arrival will create lines. Anne Shump, Chairman of the Supervisors of the Checklist in Durham, testified that a huge number of people arrived between 4:00 and 7:00 p.m. during the 2016 general election, including approximately half of all new registrants for that election.

Deputy Secretary of State David Scanlan testified that the State defines “long lines” as those with a wait time in excess of 15 minutes. Many polling places throughout New Hampshire have already experienced long lines in prior elections, even those using the simplified 2016 registration form. (See Pls.’ Ex. 49 at 5278 (30-minute wait during 2016 presidential primary in Plymouth); id. at 5965 (20–30-minute wait in Manchester Ward 12 in 2016 general election); id. at 6100 (30-minute wait in Wakefield in 2016 general election).) Moreover, not only did multiple witnesses testify about voters being generally discouraged from voting due to long lines, but the phenomenon of voters leaving polling places due to long lines has been documented in official correspondence to the State. (See Pls.’ Ex. 18, 20, 25.)

The State argues that Dr. Yang’s projections are unreliable because he obtained his numbers from a small number of election officials that were selected by plaintiffs’ counsel. However, the numbers utilized in the charts discussed above regarding average registration time are not speculation; the registration times at certain locations during an election on November 7, 2017, were officially documented and demonstrated

an overall average time of 4.8 minutes. (Pls.' Ex. 7.) Moreover, Dr. Yang's estimates about the additional time needed to read and complete Form B are reasonable given the form's length and complexity. Finally, even accepting some variability in the numbers, Dr. Yang's analysis demonstrates that the margin for error is small. The number of staff recruited for the elections is largely based on estimates of voter turnout. Thus, if turnout is higher than anticipated, even by relatively small amounts, the situation can quickly become unmanageable regardless of the amount of preparation.

The State also argues that any issues raised by Dr. Yang can be addressed by proper staffing. At the hearing, the evidence and witness testimony indicated that the Attorney General's office and the Secretary of State's office both put great effort into ensuring that elections are conducted fairly and efficiently. The Court has no doubt that these entities would operate in good faith to minimize the negative impact of SB3. However, despite their best efforts, the Court is not convinced that the State will necessarily be able to meet these needs. Ms. Shump testified that due to time constraints for training volunteers, mistakes are made all the time. Ms. Shump also testified that the current polling place in Durham is maxed out at 28 staff members and there is simply insufficient physical space for additional poll workers. Karen Freitas, the Town Clerk in Plymouth, testified that due to the changes in forms it has been difficult to recruit a sufficient number of poll workers as there is an increased fear of making mistakes. She also testified that she has not conducted a formal training for poll workers in Plymouth on SB3, and that they will likely get a brief overview of the new form a mere 5–10 minutes before the polls open. Finally, as noted above, the State has

a history of experiencing long lines at many locations for many years, even during the 2016 election which saw the most streamlined version of the domicile affidavit.

Therefore, upon consideration of the foregoing, the Court believes that SB3 will result in potentially significant increases in waiting times at polling places throughout the state, particularly those with larger turnout.

### **C. Disparate Treatment**

Plaintiffs have also presented credible testimony that the negative impact of SB3 will be greater for certain groups of people. Utilizing data from the New Hampshire Secretary of State and the American Community Survey produced by the United States Census Bureau, Dr. Herron<sup>3</sup> performed a bivariate analysis demonstrating that towns with higher populations of individuals of certain groups—specifically youth between the ages of 18–24, highly mobile individuals, and those of low socioeconomic status—all experienced higher rates of same-day registration. A multivariate analysis also demonstrated that undeclared voters and Democrats utilized same-day registration at a significantly higher rate than Republicans. These groups would be exposed to Form B at higher rates and therefore experience greater negative impact.

Other specific populations would also experience disproportionate burdens under SB3. The homeless will be unfairly burdened given the uncertain nature of their domicile. These individuals are often highly transient and may live in a variety of locations in a short period of time, such as at a friend's house, a homeless shelter, or on

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<sup>3</sup> Prior to the hearing, the State objected to the reliability of the methodologies employed by Dr. Herron pursuant to RSA 516:29-a, and in doing so retained a rebuttal expert. However, the State elected not to call their expert at the hearing and proceeded solely by cross-examination. Therefore, the State's challenges go to the weight of Dr. Herron's testimony and not its admissibility. The Court found Dr. Herron to be a well-qualified expert witness and finds the conclusions referred to herein to be reliable and adequately supported in the record.

the street. This would make it difficult, if not impossible, for them to comply with Option 1, and equally difficult for the State to perform its follow-up under Option 2. In addition, the physically disabled could be unfairly burdened due to the simple fact that they may be unable to stand in the longer lines caused by Form B.

Furthermore, not all polling places see similar voter turnout. Certain locations, particularly college towns such as Hanover and Durham, see turnout in the high thousands, whereas other locations are in the low hundreds. For example, Ms. Shump testified that Durham had close to 10,000 voters for the 2016 presidential election, 3,000 of which were new registrants utilizing same-day registration. As demonstrated by Dr. Yang, these high-turnout locations are much more likely to be impacted by the increased registration times caused by SB3, leading to a disparate impact on voters throughout the state.

As a general counter to the foregoing, the State argues that SB3 has been in place since 2017 for over 200 local and special elections without issue. However, these elections experience significantly lower turnout than statewide general elections. As an example, Ms. Shump testified that town elections in Durham usually see approximately 20 new voters with 1,000 total votes cast. Louise Spencer, who served as a deputy registrar for the Manchester mayoral primary and special election in 2017, testified that she registered a total of 15 people for that election, and Ms. Shump testified that an election in March 2018 saw only three new registrants, none of whom needed to use the domicile affidavit. In contrast, Ms. Shump testified that she anticipates a large turnout for the upcoming midterms, expecting 4,000–5,000 voters and between 1,000–2,000

new registrants at her polling place in Durham. Therefore, the success of SB3's new Form B in local elections has little relevance to elections that see much higher turnout.

Part 1, Article 11 of the New Hampshire Constitution guarantees that "[a]ll elections are to be free, and every inhabitant of the state of 18 years of age and upwards shall have an equal right to vote in any election." Further, "[v]oting registration and polling places shall be easily accessible to all persons including disabled and elderly persons who are otherwise qualified to vote." Id.

The right to vote is protected in more than the initial allocation of the franchise. Equal protection applies as well to the manner of its exercise. Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person's vote over that of another. It must be remembered that the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise.

Bush v. Gore, 531 U.S. 98, 104–05 (2000).

Courts have found that unreasonable delays can result in unconstitutional deprivations of the right to vote. In Ury v. Santee, 303 F. Supp. 119 (N.D. Ill. 1969), the Village of Wilmette in Illinois reduced the number of polling precincts from 32 to 6. While the six consolidated precincts were comparatively equal in geographic area, they "were substantially unequal in terms of numbers of registered voters included in each precinct." Id. at 122. As a result, extensive lines and traffic jams formed on election day. Id. at 124. The Court found that "United States citizens do have a right guaranteed by the Constitution to a reasonable opportunity to vote in local elections, that is, to be given reasonable access to the voting place, to be able to vote within a reasonable time and in a private and enclosed space." Id. at 126. "As a consequence of the failure of defendants to provide adequate voting facilities, plaintiffs and those

similarly situated were hindered, delayed and effectively deprived of their rights . . . to vote” and “were discriminated in the exercise of their franchise and were denied the right . . . to equal protection of the laws.” Id.

In a more extreme case, in League of Women Voters of Ohio v. Brunner, 548 F.3d 463, 477–78 (6th Cir. 2008), voters were forced to wait in incredibly long lines, some up to twelve hours, due to several factors. The Court found that “[l]ong wait times caused some voters to leave their polling places without voting in order to attend school, work, or to family responsibilities or because a physical disability prevented them from standing in line.” Id. at 478. The Court also found that “[p]oll workers received inadequate training, causing them to provide incorrect instructions and leading to the discounting of votes.” Id. The Court concluded that these allegations, together with others, such as malfunctioning voting machines, “could establish that Ohio’s voting system deprives its citizens of the right to vote or severely burdens the exercise of that right depending on where they live in violation of the Equal Protection Clause.” Id.

As noted above, there is official documentation of individuals leaving long lines at polling place in prior years. This will only become worse under SB3, and the impact will be felt by different populations depending on their geographic location, socioeconomic status, and educational background. Upon consideration of the foregoing, the Court finds that the burdens imposed by SB3 are unreasonable and discriminatory, triggering the intermediate level of scrutiny articulated by the New Hampshire Supreme Court in Guare. Therefore, “the State must articulate specific, rather than abstract state interests, and explain why the particular restriction imposed is actually necessary, meaning it actually addresses, the interest set forth.” Guare, 167 N.H. at 665.

## II. Interests Articulated by the State

In their requests for findings of fact and rulings of law, the State articulates the following interests in support of SB3: (1) assessing the eligibility and qualifications of voters; (2) ensuring that only those individuals qualified to vote under Part I, Article 11 of the New Hampshire Constitution are registering and voting in the proper location; (3) safeguarding voter confidence in the election system; (4) protecting public confidence in the integrity of the State's elections; and (5) preventing and protecting against wrongful voting and/or voter fraud.

The State argues that the most reliable source of legislative intent, aside from the language of the statute, is the majority report of the committee recommending the adoption of the legislation. In this case, that report reads as follows:

This bill, as amended by the committee, is designed to strengthen the public confidence in the integrity of our elections by closing the domicile loophole. Under current New Hampshire law, to be qualified to vote individuals must establish their domicile in the town or ward where they seek to register. Many new registrants satisfy this requirement by signing a "domicile affidavit" in which they attest under penalty of perjury that they are domiciled in the town or ward. The use of only an affidavit to prove domicile creates opportunities for voter fraud because election officials must take the applicant at his or her word. Furthermore, because the standard for domicile under RSA 654:1, I, is entirely subjective . . . , it is virtually impossible to prove that an individual has misrepresented domicile in the affidavit. . . . [This bill creates] an important change in the law because it makes false representations of domicile much more difficult and makes enforcement of the law much easier if there are misrepresentations. . . . The minority argues that the law should not be changed because there is not serious voter fraud. The majority rejects this as the standard the legislature should apply when considering election law reform. If current law creates opportunities for voter fraud the majority believes that the law should be changed to eliminate those opportunities regardless of whether anyone can demonstrate that the vulnerability in the law has been exploited.

(JE 3.) Furthermore, Senator Regina Birdsell, one of the bill's sponsors, stated:

This legislation has been in the making for a long time. Some people believe there is rampant voter fraud, while others believe that voter fraud is widespread enough to bother not doing anything about it. However almost no one believes that voter fraud does not exist at all and how could they? The secretary of state testified that in every election at least one case is discovered and prosecuted. As with all other kinds of crime, it is hard to know how many undiscovered cases occur. With our incredibly lax honor system voting we let people who vote simply because they say they are domiciled here. We have no way to know how many improper votes are cast by those not truly domiciled in the state each election. Mister President, we owe it to our constituents to balance two equally important ideas. One; we want to make voting and access to the polls easy enough that not one single qualified voter is turned away and denied the right to cast a legal ballot. Two; we want to make our voting system secure enough that not one single qualified voter has his or her vote cancelled out by ballots cast by someone who is not legally domiciled here. . . . If we continue to turn a blind eye to the fact that this happens in every election without making any effort to assure that only legal voters are casting ballots in our elections, then we are not doing right by our constituents.

(JE 2 CSR 15–16.) Senator Andy Sanborn, another sponsor of the bill, stated:

I would hope that . . . if you truly believe that every eligible voter has a right to vote, that you have an equally strong requirement to make sure their vote counts. . . . Some people in this room have had exceptionally close races. So shouldn't we be trying just as hard to make sure that we know we have done all in our power to make sure that every vote was eligible, and that every vote counted? Because if one person slips in to decide a race who is not eligible, it has disenfranchised every person who showed up who was eligible. So when we talk about fraud, . . . because we don't have any protection on fraud, because we are one of the most lax states in America. . . . Additionally, while I don't think there is widespread fraud and abuse, we received testimony from the secretary of state himself . . . that said that in every single election in recent history, they have brought someone up on voter fraud. . . . [I]f we do not ensure integrity, integrity of the process, that beyond any other measure will discourage people from voting.

(Id. at CSR 25–26.)

From the foregoing, contrary to the State's assertions, it is abundantly clear to the Court that voter fraud and wrongful voting were at the center of SB3's creation and

passage. All remarks regarding improving confidence in and the integrity of the State's elections were made in the context of closing "loopholes" and tightening up the "lax" system that supposedly enables ineligible voters to cast ballots throughout the State. However, as documented throughout the preliminary injunction hearing and as acknowledged by the legislature, voter fraud is not widespread or even remotely commonplace. During the hearing, Dr. Herron testified that the fraud rate for the 2016 general election, for which there was a single confirmed case of voter fraud, was .0166% when looking at the number of domicile affidavits signed (6,033) and .00013% when looking at the number of total ballots cast (755,850). Dr. Herron reported similarly miniscule rates of voter fraud investigation in prior years.<sup>4</sup> Dr. Lorraine Minnite testified that her research of voter fraud in New Hampshire indicated that there has been less than one case per year over the past twenty years.

Moreover, none of the confirmed cases of voter fraud appear to have been the result of a misused domicile affidavit. Further, and most importantly, SB3 itself does nothing to actually prevent voter fraud. Because neither option on Form B requires a registrant to provide proof of domicile prior to voting, anyone intent on casting an ineligible vote can readily do so. Therefore, instead of combating fraud, the law simply imposes additional burdens on legitimate voters.

Similarly, voter confidence is already very high in New Hampshire, as evidenced by the high rate of voter participation. Dr. Herron testified that New Hampshire ranks among the highest in the country for voter turnout. In fact, voter turnout in 2016 was the highest turnout in New Hampshire in eight years and New Hampshire ranked third in the

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<sup>4</sup> .00076% in 2006 (3 investigations out of 393,056 ballots cast), .0014% in 2008 (10 investigations out of 719,403 ballots cast), and .00087% in 2010 (4 investigations out of 461,423 ballots cast)

nation for voter participation. Notably, despite making reference to the goal of increasing voter confidence and the integrity of the election system, none of the proponents of SB3 put forth any actual evidence that the public lacks confidence in the system.

Therefore, as with voter fraud, improving confidence in New Hampshire's election system is not a significant State interest that justifies placing increased burdens on voters. Moreover, there is no evidence that SB3 even accomplishes its stated goal in this regard. The State presented no evidence that the new domicile affidavit has had any impact on the public's perception of the election process. In contrast, Dr. Herron testified that the most important factor in the perception of election integrity is referred to as the "winner effect": an individual is more likely to believe that the election process is fair when their preferred candidate wins, and vice versa.

The Court agrees with the State that its articulated justifications for the law are valid and important concerns. However, the Court finds that, at this stage, the State has failed to meet its burden of establishing that SB3 actually addresses these interests. The language of the forms was drafted by legislators and reads like a statute, but is meant to be read, understood, and followed—under threat of criminal charges and civil fines—by all eligible citizens regardless of education or disability, under the pressure of a line of dozens, if not hundreds, waiting behind them, and with the assistance of volunteers with as little as five minutes of training. As Senator Birdsell herself acknowledged on the floor of the senate, "one voter being disenfranchised because someone illegally voted is just as wrong as someone not being able to vote at the polls." (JE 2 at CSR 30). Given the extraordinarily low rate of documented voter fraud in this

state, it is far more likely that more legitimate voters will be dissuaded from voting than illegitimate voters will be prevented. Accordingly, the Court finds plaintiffs have demonstrated a likelihood of success on the merits for their claim that SB3 unconstitutionally burdens the right to vote. As the requested relief is identical for each count, the Court need not address the remainder of the claims raised in plaintiffs' complaint.

In addition, the Court finds there is an immediate danger of irreparable harm. "Courts routinely deem restrictions on fundamental voting rights irreparable injury." League of Women Voters of North Carolina v. North Carolina, 769 F.3d 224, 247 (4th Cir. 2014). "[D]iscriminatory voting procedures in particular are the kind of serious violation of the Constitution and the Voting Rights Act for which courts have granted immediate relief." Id. "[O]nce the election occurs, there can be no do-over and no redress." Id.

Furthermore, the public interest favors the issuance of a preliminary injunction. "While states have a strong interest in their ability to enforce state election law requirements, the public has a strong interest in exercising the fundamental political right to vote." Obama for Am. v. Husted, 697 F.3d 423, 436 (6th Cir. 2012). "That interest is best served by favoring enfranchisement and ensuring that qualified voters' exercise of their right to vote is successful." Id. at 437. "The public interest therefore favors permitting as many qualified voters to vote as possible." Id.

Finally, under the circumstances of this case, there is no adequate, alternative remedy at law available to plaintiffs. Where the law threatens to disenfranchise an individual's right to vote, the only viable remedy is to enjoin its enforcement.



4 Park St Room 200  
Concord, NH 03301

[www.LWVNH.org](http://www.LWVNH.org)

January 10, 2019

To: Chair David Cote and members of the House Election Law Committee

From: Liz Tentarelli, president, League of Women Voters NH

Contact: home phone 603-763-9296 Email: [LWVNewHamshire@gmail.com](mailto:LWVNewHamshire@gmail.com)

**Re HB105, to undo the cumbersome voter registration process adopted in 2017 with passage of SB3.**

*The League of Women Voters is a non-partisan political organization that never supports or opposes candidates or political parties. But we do take stands and advocate on issues after study and consensus by members. Voting rights and good government are two of our core values. In NH, we are an all-volunteer organization.*

**We urge the committee to recommend HB105 Ought to Pass.**

As most of you may be aware, the League sued the Secretary of State and the Attorney General in 2017, following passage of SB3. We believed then and still believe that SB3 is an attempt to suppress the votes of some groups of citizens, that it was passed because of inflated and unsupported claims of voter fraud, and that in its confusing forms and intimidating penalties for failure to return paperwork after the election, it discourages voting. We don't like that!

In September 2017, in a one-day preliminary injunction hearing in Hillsborough South Superior Court, we were victorious in part. Judge Charles Temple ruled that the penalties must be suspended pending the outcome of a full trial.

In August/September 2018, in a nine-days preliminary injunction hearing in Hillsborough North Superior Court, Judge Kenneth Brown heard testimony from town elections officials, would-be voters who were confused or intimidated by the registration forms, and experts on read-ability and lines forming at the polls, among others. I personally was in the courtroom each day, dismayed that something as basic to our rights as citizens could be made so confusing and discouraging as the registration process and forms under SB3.

On October 21, 2018, Judge Brown ruled that SB3 would not be in effect for the November election. An appeal to the NH Supreme Court successfully overturned that ruling for the time being, on the grounds that registration forms and training of local elections officials were already in place.

The NH Supreme Court agreed with the state, that timing created issues, and stayed Judge Brown's decision until the day after the November election.

The full trial resulting from the League's suit against the state has not yet been scheduled.

Passage of HB105 would affirm the wisdom of Judge Brown's ruling (link in the appendix, below), would send a message to would-be voters that NH values voting rights for all its citizens, and would probably save the state significant court costs in the long run.

**We, the League of Women Voters New Hampshire, urge you to vote Ought To Pass on HB105.**

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### **Appendix:**

Citation: Judge Kenneth Brown's ruling on SB3, dated October 21, 2018.

In this 24-pages document, Judge Brown summarizes much of the testimony that led to his decision. <https://htv-prod-media.s3.amazonaws.com/files/sb3preliminaryinjunction-1540234091.pdf>

On October 22, 2018, WMUR reported on Judge Brown's ruling. The section below is quoted from that broadcast:

...The judge noted that during the summer hearing, "a number of New Hampshire college students testified to being confused and intimidated by the forms."

An expert in literacy testified that the affidavit's "readability" was at least as difficult as reading the Harvard Law Review. The judge wrote that the expert's testing method "indicated that the forms would be incredibly difficult for the average adult to read and understand."

The judge wrote that the "complexity and confusion surrounding the new forms" would increase the amount of time necessary to register, "resulting in longer lines and delays at polling places." Those longer lines could discourage people from showing up to vote and cause people who try to vote to leave their polling places without voting.

Brown also wrote that plaintiffs presented "credible testimony that the negative impact of SB 3 will be far greater for certain groups of people," including those between the ages of 18-24, highly mobile individuals and those of low socioeconomic status," all of whom, according to the judge, have higher rates of same-day registration.

He wrote that homeless people "will be unfairly burdened given the uncertain nature of their domicile." And he wrote that studies have shown that Democrats and undeclared voters have higher rates of same-day registrations than Republicans.

"Courts have found that unreasonable delays can result in unconstitutional deprivations of the right to vote," Brown wrote. As a result, Brown wrote, "the court finds that the burdens imposed by SB 3 are unreasonable and discriminatory."

He found that "it is abundantly clear to the court that voter fraud and wrongful voting were at the center of SB3's creation and passage." The bill was passed along party lines, with Republicans in favor and Democrats opposed.

Yet, he wrote, "as documented throughout the preliminary injunction hearing and as acknowledged by the legislature, voter fraud is not widespread or even remotely commonplace" in the Granite State. And, he wrote, "None of the confirmed cases of voter fraud appear to have been the result of a misused domicile affidavit."

"Further and most importantly, SB 3 itself does nothing to actually prevent voter fraud" because it does not prevent anyone from voting, the judge wrote. He wrote that high voter turnout indicates that people have confidence in the integrity of the system, and as a result, "Improving confidence in New Hampshire's election system is not a significant state interest that justifies placing increased burdens on voters."

**Testimony in Favor of HB 105:**

**“AN ACT relative to domicile residency, voter registration, and investigation of voter verification letters.”**

Rep. Timothy Horrigan (Strafford 6)

House Election Law Committee  
January 10, 2019

HB 105 is a lengthy bill, but its basic aim is simple. It would repeal the onerous anti-voting rights bill SB3, which was passed in 2017. It would also undo an earlier bill passed in 2012, SB 318. HB 105 would put the law back the way it was before 2012. That law may not have been perfect, but it was constitutional and it didn't violate federal election law.

The most glaring problem with SB 3 was the new voter registration forms it mandated. Those forms are unnecessarily complicated and threatening. Also, the state constitution and federal voting law guarantee all citizens who live here the right to vote here, but, SB 3 tried to complicate things with several pages of convoluted, unconstitutional and contradictory language about residency and domicile. Finally, HB 105 eliminates a complicated and ineffective procedure for verifying voter registrations after the election.



PROTECTING THE VOTE FOR ALL AMERICANS

**Testimony Regarding HB 105 – Repealing Onerous and Confusing Voter Registration Requirements**

**New Hampshire House Election Law Committee – January 10, 2019**

Fair Elections Center is a national, nonpartisan voting rights and election reform organization which works to remove barriers to registration and voting for traditionally underrepresented constituencies. Formed in 2017 to continue the work of the Fair Elections Legal Network (FELN), the Center works to improve election administration through legislative, legal and administrative reform, to protect access to the ballot through litigation, and to provide election law expertise, voter information and technical assistance to voter mobilization organizations. The Center is a member of the New Hampshire Campaign for Voting Rights, comprised of a number of groups invested in strengthening integrity and building transparency into the voting process and improving access to the ballot box. The Center's Campus Vote Project (CVP) expands the organization's work around student voting issues. CVP works with universities, community colleges, faculty, students and election officials to reduce barriers to student voting and to increase access to the ballot. CVP's goal is to help campuses institutionalize reforms that empower students with the information they need exercise their most basic right as a citizen -- to register and vote.

This bill, HB 105, would repeal onerous voter and confusing voter registration barriers passed in 2017, some of which are currently enjoined by a court as unconstitutional.

**Background:**

SB 3 in 2017 changed New Hampshire law to require that when registering to vote either before or on Election Day, voters must prove their domicile by supplying documentary evidence of New Hampshire domicile, such as an in-state driver's license, or other proof of "verifiable action" that establishes domicile. Many of the "verifiable actions" the law currently specifies prove domicile are actions students have no reason to undertake such as renting or purchasing a home or enrolling a child in school. And much of the documentation is difficult for many voters, and especially students, to obtain. Under the changes enacted by SB 3, if people do not have evidence of "actions carrying out [their] intent to be domiciled" at their voting address or do not follow up with authorities, the statute subjects them to official action and investigation to determine domicile, including penalties.

SB 3 also created a distinction between registrations more than 30 days before an election and registrations occurring within 30 days of an election and on Election Day that was not previously present in the law and is not necessary.

These complex and confusing voter registration changes were unnecessary and only erected barriers to voters rather than encouraging them to be active citizens.

Students were among the groups particularly targeted by the 2017 changes given students' high use of Election Day registration and their difficulty in obtaining the statutory proof of domicile. But students have the right to vote where they go to school and should not be subject to burdensome requirements to vote at their school address. Other vulnerable voters heavily impacted by these changes included homeless voters, low-income voters, and others who move more frequently.

SB3 has resulted in litigation and a judge has already ruled that the requirements are so complex and confusing that they are unconstitutionally burdensome. The court found that the new voter registration form put in place by the law and intended for those who went to vote without proof of domicile was incredibly difficult to understand by laypeople because of its complicated and obtuse language. Indeed, a number of college students testified that the form confused and intimidated them.

**Solution:**

The legislature should now take the opportunity to put an end to these restrictions and barriers put in place by SB 3. HB 105 restores the affidavit option to prove domicile, putting it back in line with other voter eligibility requirements. It would also remove the unnecessary and intimidating investigatory authority and penalty provisions, which are currently enjoined.<sup>1</sup> HB 105 also would repeal the distinction enacted by SB 3 in 2017 between those who register to vote within 30 days of an election or on Election Day and those who register more than 30 days before an election. These changes would restore the previous process whereby Election Day registration is distinct but advance registration is consistent — a more direct and less confusing and arbitrary option.

HB 105 would thus restore a more equitable, straightforward process, especially for those most affected by the 2017 changes. In passing SB 3, legislators did a disservice to the state by making it harder for students to develop as citizens. Decisions made by local governments affect all residents of that locality — both those who have resided in the community for decades and those who recently moved to the area to obtain an education. This committee now has the opportunity to change course and chart a new and inclusive direction that encourages students and other currently-marginalized voters to participate in democracy and in the communities in which they live by sending the message that they are welcome as participants and full community members. To that end, this committee should support HB 105.

If you have any questions or need further information, please contact Michelle Kanter Cohen, Counsel, Fair Elections Center, (202) 331-0114, [mkantercohen@fairelectionscenter.org](mailto:mkantercohen@fairelectionscenter.org).

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<sup>1</sup> Order on Pending Motions, *League of Women Voters of New Hampshire v. Gardner*, Case No. 226-2017-CV-00433 (N.H. Sup. Ct. Sept. 12, 2017), available at <https://www.courts.state.nh.us/caseinfo/pdf/civil/LeaguevNH/091217league-order.pdf>



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SB3 questions:

- 1) How much time and money has the Secretary's office spent defending the law against a court challenge?
- 2) SB 3 provides a list of documents that can be used to prove domicile. However, you would agree that ultimately, whether to accept a document is left to the supervisor of the checklist in each town? FOLLOW UP:so, it could be that some documents would be acceptable to prove domicile in one town, but not in another?
- 3) The secretary said yesterday at orientation that the office wants to treat voters equally. SB 3 created a different proposal for those registering more than 30 days before an election and those registering within 30 days. Is that equal?

HB1264 questions.

· **THIS QUESTION IS CRITICAL.** The Secretary of State's Office testified before this Committee on HB 1264 and stated that "[a] student would have to decide whether they want to claim if they're a resident of the state of New Hampshire ... and if they do, they're subject to whatever else would be required of any other resident of the state of New Hampshire." <http://nhpr.org/post/nh-election-chief-voters-should-have-claim-residency-participate#stream/0> These obligations would, of course, include paying residency motor vehicle fees. My question to you is this. It is a yes or no question, and I would like a yes or no response: Under HB 1264, would a NH college student who graduated high school from another State and has a license in that State, but who is domiciled in New Hampshire upon registering to vote, be legally obligated to obtain a NH driver's license if they drive within 60 days of registering?

o [If he refuses to answer the question] Senator Birdsell, who was the lead advocate for HB 1264, said on NHPR's The Exchange, with Mr. Scanlan sitting next to her, that students in this scenario would have to pay these motor vehicle fees within 60 days of registering to vote [<http://nhpr.org/post/amendment-renews-debate-over-nh-voting-laws#stream/0> (at 30:48-33:44)]. Do you agree or disagree with her? Do you recall ever disputing Senator Birdsell's statement on The Exchange?

· Don't you think it is at least possible that, if a person knows that they will have to pay \$50 to obtain a NH drivers' license or pay hundreds of dollars to register their car in NH if they register to vote here, the person may not exercise their right to register and vote?

· There was some discussion during the debate on HB 1264 that all States do what HB 1264 does. I have done some research.

o Are you aware that Vermont, unlike HB 1264, does not require college students who vote and who know they will live there for a "defined period of time" to register their cars

in Vermont and obtain a Vermont driver's license? [Under 23 V.S.A. 4(30), "persons who live in the State for a particular purpose involving a defined period of time, including students, migrant workers employed in seasonal occupations, and persons employed under a contract with a fixed term, are not residents for purposes of [the Motor Vehicle title] only."]

o Are you aware that the Maine Secretary of State has said, unlike what HB 1264 attempts to do, that a person is not required to obtain a Maine driver's license and car registration if they have voted or wish to vote in Maine? <https://bangordailynews.com/2018/03/08/politics/lewiston-mayor-voting-carries-additional-legal-obligations/>.

· One Senator said after the 2016 Election (Sen Innis) that "If you're from Boston and you're up here eight months out of the year and you're registered to vote there, you shouldn't be able to vote here." <http://www.fosters.com/news/20161113/college-towns-have-big-impact-on-nh-election> Do you agree with this statement?

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January 10, 2019 9:55 am (GMT +5:00)

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# A Split Decision in Congress



VALLEY NEWS — JAMES M. PATTERSON  
Dartmouth College junior Klara Barbarossa, of Saratoga, Calif., gets a ride from Robinson Hall to Hanover High School to cast her vote in the midterm election on Tuesday in Hanover. Shuttles for the students were organized by NextGen America.

## Democrats Set To Flip House

BY STEVE PEOPLES  
Associated Press

WASHINGTON — Democrats were on track to gain House control on Tuesday night but Republicans held their Senate majority as voters rendered a mixed verdict in the first nationwide election of Donald Trump's turbulent presidency.

The Democrats picked up the 23 seats they would need to take from the GOP, but still were short of the 218 total to take control with more races still undecided.

The results allowed both parties to claim partial victory, but highlighted an extraordinary realignment of U.S. voters by race, sex and education. Republicans maintained their strength in conservative, rural states, while Democrats made inroads across America's suburbs.

With control of Congress, statehouses and the president's agenda at stake, some of the nation's top elections were too close to call.

Yet Democrats' dreams of the Senate majority as part of a "blue wave" were shattered after losses in many of the top Senate battlegrounds: Indiana, Missouri, Ten-

SEE CONGRESS — A4

Re: HB 105 and HB 106

January 10, 2019

To the Members of the Election Law Committee:

The caption on the front-page photo of the West Lebanon Valley News the day after the November election sums up perfectly the need for New Hampshire to clarify what "home" means in terms of voting:

*Dartmouth College junior Klara Barbarossa, of Saratoga, Calif., gets a ride from Robinson Hall on campus to Hanover High School to cast her vote in the midterm election in Hanover on Tuesday.*

What's wrong with this picture?

Shouldn't that read "*of Hanover, NH*"? Otherwise, it ought to read "*gets a ride to the Post Office, where she casts her California absentee ballot.*"

HB 105 asks us to add "for the indefinite future" to our definition of residence.

How long is "for the indefinite future"? Long enough for a ride to the polls in Hanover?

HB 106 asks us to repeal the very statement that prohibits anyone present for temporary purposes from gaining a domicile for voting purposes.(RSA 654:1, 2, II (a))

Why would we want to remove the protection we have in place?

Absentee voting is not voter suppression. It is the legitimate and verifiable means for anyone to cast a ballot who is away from the place where they live and vote.

Please vote HB 105 and HB 106 ITL.

*Margaret M Drye*

Margaret Drye

PO Box 3, Plainfield, NH 03781

603-675-9159

# **Fiscal Note**

HB 105-FN- FISCAL NOTE  
AS INTRODUCED

AN ACT relative to domicile residency, voter registration, and investigation of voter verification letters.

FISCAL IMPACT:  State  County  Local  None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill repeals election related statutes established over the last biennium. The bill would modify the definition of domicile for voting purposes. The bill also modifies forms and voting registration procedures. It also removes the requirement that the Secretary of State conduct post-election voter registration inquiries.

The Secretary of State's Office indicates it would continue to participate in interstate voter matching programs, but would no longer have authority to review the data for the purpose of eliminating matches. The Office states the bill would remove the authority of the Secretary of State to conduct follow-up confirmation of verification mailings sent to voters that submit an affidavit to either register to vote or obtain a ballot and transfers this responsibility to the Attorney General's Office. Voter registration forms would change and extensive training of local election officials will be required but the associated printing and training costs should be covered by the existing budget.

The Department of Justice (DOJ) states the Secretary of State currently reviews and conducts inquiries that this bill would shift to the DOJ. The DOJ election law unit currently conducts investigations into potential voter fraud. There are no additional revenues as a result of this bill. The DOJ cannot estimate the number of cases that would be generated and any associated expenditures, therefore the fiscal impact is indeterminable.

The New Hampshire Municipal Association states the bill may affect the workload of city and town clerks and supervisors of the checklist but this is unlikely to impact municipal expenditures. There will be no effect on municipal revenues.

The Judicial Council states that fewer inquiries by the Secretary of State's Office may lead to fewer criminal charges against indigent individuals based on voting irregularities. This may result in direct but indeterminable savings to the Judicial Council, but such cases are not common so any savings would be minimal.

This bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs or savings associated with these penalties below.

Judicial Branch	FY 2020	FY 2021
Class A Misdemeanor	\$76	\$77
Complex Equity	\$783	\$788
Average Routine Civil Case	\$506	\$516
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2020 and FY 2021 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor.		
Judicial Council		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).		
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$120	\$105 to \$120

**AGENCIES CONTACTED:**

Department of State, Department of Justice, New Hampshire Municipal Association, Judicial Council, Judicial Branch, and New Hampshire Association of Counties

# Bill as Introduced

HB 105-FN - AS INTRODUCED

2019 SESSION

19-0012

11/04

HOUSE BILL            ***105-FN***

AN ACT                relative to domicile residency, voter registration, and investigation of voter verification letters.

SPONSORS:            Rep. Horrigan, Straf. 6; Rep. W. Pearson, Ches. 16; Rep. Frost, Straf. 16; Rep. Spang, Straf. 6; Rep. Mulligan, Graf. 12; Rep. Berch, Ches. 1; Rep. Kenney, Straf. 6; Rep. Read, Rock. 17; Rep. Cohen, Hills. 28; Sen. Hennessey, Dist 5

COMMITTEE:          Election Law

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ANALYSIS

This bill modifies the definition of domicile for voting purposes, modifies forms and procedures for voter registration, and removes the requirement that the secretary of state conduct post-election voter registration inquiries.

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Explanation:          Matter added to current law appears in *bold italics*.  
                         Matter removed from current law appears [~~in brackets and struck through~~].  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nineteen*

AN ACT relative to domicile residency, voter registration, and investigation of voter verification letters.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Voter; Office Holder; Claim of Domicile. Amend RSA 654:1, I to read as follows:

2 I. Every inhabitant of the state, having a single established domicile for voting purposes,  
3 being a citizen of the United States, of the age provided for in Article 11 of Part First of the  
4 Constitution of New Hampshire, shall have a right at any meeting or election, to vote in the town,  
5 ward, or unincorporated place in which he or she is domiciled. An inhabitant's domicile for voting  
6 purposes is that one place where a person, more than any other place, has established a physical  
7 presence and manifests an intent to maintain a single continuous presence for domestic, social, and  
8 civil purposes relevant to participating in democratic self-government. A person has the right to  
9 change domicile at any time, however a mere intention to change domicile in the future does not, of  
10 itself, terminate an established domicile before the person actually moves. *A person's claim of*  
11 *domicile for voting purposes shall not be conclusive of the person's residence for any other*  
12 *legal purpose.*

13 2 Voters; Temporary Absence. Amend RSA 654:2 to read as follows:

14 654:2 Temporary Absence [~~or Presence~~].

15 [~~F~~] A domicile for voting purposes acquired by any person in any town shall not be  
16 interrupted or lost by a temporary absence therefrom with the intention of returning thereto as his  
17 or her domicile. Domicile for the purpose of voting as defined in RSA 654:1, once existing, continues  
18 to exist until another such domicile is gained. Domicile for purposes of voting is a question of fact  
19 and intention [~~coupled with a verifiable act or acts carrying out that intent~~]. A voter can have only  
20 one domicile for [~~voting~~] *these* purposes. No person shall be deemed to have lost a domicile by  
21 reason of his or her presence or absence while the voter or his or her spouse is employed in the  
22 service of the United States; nor while engaged in the navigation of the waters of the United States  
23 or of the high seas; nor while a teacher in or student of any seminary of learning; nor while confined  
24 in any public prison or other penal institution; nor while a patient or confined for any reason in any  
25 nursing, convalescent home or hospital, old folks or old age home, or like institution or private  
26 facility.

27 [~~II.(a)~~] ~~A person present in New Hampshire for temporary purposes shall not gain a domicile~~  
28 ~~for voting purposes. A person who maintains a voting domicile where he or she came from, to which~~  
29 ~~he or she intends to return to as his or her voting domicile after a temporary presence in New~~  
30 ~~Hampshire, does not gain a domicile in New Hampshire regardless of the duration of his or her~~

1 presence in New Hampshire.

2 ~~(b) A person who has been present and residing in one town or ward in New Hampshire~~  
 3 ~~for 30 or fewer days is presumed to be present for temporary purposes unless that person has the~~  
 4 ~~intention of making the place in which the person resides his or her one place, more than any other,~~  
 5 ~~from which he or she engages in the domestic, social, and civil activities of participating in~~  
 6 ~~democratic self-government including voting, and has acted to carry out that intent.~~

7 ~~(c) For the purposes of this chapter, temporary purposes shall include, but are not~~  
 8 ~~limited to, being present in New Hampshire for 30 or fewer days for the purposes of tourism,~~  
 9 ~~visiting family or friends, performing short-term work, or volunteering or working to influence~~  
 10 ~~voters in an upcoming election.~~

11 ~~(d) For the purposes of voter registration under RSA 654:7, IV(c), an applicant shall~~  
 12 ~~demonstrate an intent to make a place his or her domicile by providing documentation showing that~~  
 13 ~~the applicant has a domicile at the address provided on the voter registration form. Such~~  
 14 ~~documentation may include, but is not limited to:~~

15 ~~(1) Evidence of residency, as set forth in RSA 654:1, I-a, at an institution of learning~~  
 16 ~~in that place;~~

17 ~~(2) Evidence of renting or leasing an abode at that place for a period of more than~~  
 18 ~~30 days, to include time directly prior to an election day;~~

19 ~~(3) Evidence of purchasing an abode at that place;~~

20 ~~(4) A New Hampshire resident motor vehicle registration, driver's license, or~~  
 21 ~~identification card issued under RSA 260:21, RSA 260:21-a, or RSA 260:21-b listing that place as his~~  
 22 ~~or her residence;~~

23 ~~(5) Evidence of enrolling the person's dependent minor child in a publicly funded~~  
 24 ~~elementary or secondary school which serves the town or ward of that place, using the address~~  
 25 ~~where the registrant resides;~~

26 ~~(6) Identifying that place as the person's physical residence address on state or~~  
 27 ~~federal tax forms, other government-issued identification, or other government forms that show the~~  
 28 ~~domicile address;~~

29 ~~(7) Evidence of providing the address of that place to the United States Post Office~~  
 30 ~~as the person's permanent address, provided it is not a postal service or commercial post office box;~~

31 ~~(8) Evidence of obtaining public utility services for an indefinite period at that~~  
 32 ~~place; or~~

33 ~~(9) Evidence of arranging for a homeless shelter or similar service provider located~~  
 34 ~~in the town or ward to receive United States mail on behalf of the individual using that facility's~~  
 35 ~~address as the individual's domicile address for voting purposes.~~

36 ~~(e) An applicant whose domicile is at an abode rented, leased, or owned by another and~~  
 37 ~~whose name is not listed on the rental agreement, lease, or deed may provide a written statement~~  
 38 ~~from a person who is listed on the rental agreement, lease, or deed, or other reasonable proof of~~

1 ~~ownership or control of the property or his or her agent who manages the property that the~~  
2 ~~applicant resides at that address, signed by the owner or manager of the property under penalty of~~  
3 ~~voting fraud if false information is provided.~~

4 ~~III. An individual applying for registration as a voter 30 or fewer days before an election~~  
5 ~~shall use the election day registration form required by RSA 654:7, IV(c) which shall require the~~  
6 ~~applicant to provide the date he or she established his or her voting domicile in New Hampshire.~~  
7 ~~The registration form shall require the voter to identify and provide evidence of a verifiable action~~  
8 ~~he or she has taken carrying out his or her intent to make the place claimed on the voter~~  
9 ~~registration form his or her domicile.~~

10 ~~IV. A person may register on election day through use of an acknowledgment of domicile~~  
11 ~~evidence obligation on the registration form and vote if he or she does not have any document in his~~  
12 ~~or her possession at the polls providing evidence of an action carrying out his or her intent to make~~  
13 ~~the address claimed as his or her voting domicile. A person relying on an acknowledgment of~~  
14 ~~domicile evidence obligation to register must mail or present evidence of an action taken before~~  
15 ~~registering to vote to carry out his or her intent to make the address claimed his or her domicile to~~  
16 ~~the town or city clerk within 10 days following the election, or within 30 days in towns where the~~  
17 ~~clerk's office is open fewer than 20 hours weekly.~~

18 ~~V. The supervisors of the checklist, as soon as practical following an election, shall~~  
19 ~~determine which registrants of that election acknowledged there was no evidence of intent to be~~  
20 ~~domiciled at their address or relied solely on an acknowledgment of domicile evidence obligation to~~  
21 ~~register and vote, and, of those registrants, those who failed to mail or present evidence of having~~  
22 ~~taken some action to carry out their intent to establish domicile at the address listed on their voter~~  
23 ~~registration applications to the clerk by the deadline. The supervisors shall attempt to verify that~~  
24 ~~each such person was domiciled at the address claimed on election day by means including, but not~~  
25 ~~limited to:~~

26 ~~(a) Examining public records held by the town or city clerk, municipal assessing and~~  
27 ~~planning offices, tax collector, or other municipal office that may house public records containing~~  
28 ~~domicile confirmation; or~~

29 ~~(b) Requesting 2 or more municipal officers or their agents or state election officers or~~  
30 ~~their agents to visit the address and verify that the individual was domiciled there on election day.~~  
31 ~~In unincorporated places that have not organized for the purposes of conducting elections, county~~  
32 ~~officers may be asked to perform this function; or~~

33 ~~(c) Referring the registrant's information to the secretary of state, who shall cause such~~  
34 ~~further investigation as is warranted.~~

35 ~~VI. Any case where supervisors are unable to verify the applicant's domicile or where~~  
36 ~~evidence exists of voting fraud shall be promptly reported to the secretary of state and to the~~  
37 ~~attorney general, who shall cause such further investigation as is warranted. After receiving~~  
38 ~~confirmation from the secretary of state that an individual is not domiciled at the address provided,~~

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- Page 4 -

1 ~~the supervisors shall also initiate removal of the person from the checklist by sending the person~~  
2 ~~the notice required by RSA 654:44.]~~

3 3 General Voter Registration; Voter Registration Form. Amend RSA 654:7 to read as follows:

4 654:7 ~~[Voter Registration;]~~ Voter Registration Form.

5 ~~I. Any person registering to vote shall be:~~

6 ~~(a) At least 18 years of age on the day of the next election; and~~

7 ~~(b) A United States citizen; and~~

8 ~~(c) Domiciled in the town or city in which the applicant is registering to vote and not~~  
9 ~~otherwise disqualified to vote.~~

10 ~~II. The applicant shall be required to produce appropriate proof of qualifications as provided~~  
11 ~~in RSA 654:12 and fill out the form as prescribed in paragraph IV.]~~

12 ~~[III.] I. [If an applicant is unable to provide the proof of qualifications as required in RSA~~  
13 ~~654:12, he or she may register by completing the necessary affidavits, pursuant to RSA 654:12, and~~  
14 ~~completing the form in subparagraph IV(b), unless the person is registering within 30 days before~~  
15 ~~an election or at the polling place on election day.] If an applicant is registering at the polling place~~  
16 ~~on *the date of the general* election [day] and is unable to provide the proof of qualifications as~~  
17 ~~required in RSA 654:12, he or she may register by completing the form in subparagraph [IV(e)] II(c)~~  
18 ~~under oath, which oath may be witnessed by an election official or any other person, working in~~  
19 ~~conjunction with the supervisors of the checklist, who is authorized by law to administer oaths,~~  
20 ~~including, but not limited to, any justice of the peace or notary public; should the applicant not~~  
21 ~~otherwise have proof of identity and therefore be relying upon the form for proof of identity, the act~~  
22 ~~of swearing to the form shall constitute sufficient proof of identity for the purposes of any person~~  
23 ~~administering the oath, notwithstanding any language to the contrary in any laws relating to the~~  
24 ~~administering of oaths for other purposes.~~

25 ~~[IV.] II.(a) Standard registration application forms shall be used throughout the state. The~~  
26 ~~registration forms shall be no larger than 8 1/2 inches by 11 inches.~~

27 ~~(b) The secretary of state shall prescribe the form of the voter registration form to be~~  
28 ~~used for voter registrations, transfers, or updates other than those [used within 30 days of an~~  
29 ~~election or] at the polling place on *the date of a general* election [day], which shall be in~~  
30 ~~substantially the following form:~~

31 ~~\_\_\_ NEW REGISTRATION I am not registered to vote in New Hampshire~~

32 ~~\_\_\_ TRANSFER I am registered to vote in New Hampshire and have moved my voting domicile~~  
33 ~~to a new town or ward in New Hampshire~~

34 ~~\_\_\_ NAME CHANGE/ADDRESS UPDATE I am registered to vote in this town/ward and have~~  
35 ~~changed my name/address~~

36 ~~Date \_\_\_\_\_~~

37 VOTER REGISTRATION FORM

38 (Please print or type)

1 1. Name \_\_\_\_\_  
2 Last (suffix) First Full Middle Name

3 2. [Domicile] Address \_\_\_\_\_  
4 Street Ward Number

5 \_\_\_\_\_  
6 Town or City Zip Code

7 3. Mailing Address if different than in 2 \_\_\_\_\_  
8 Street

9 \_\_\_\_\_  
10 Town or City Zip Code

11 4. Place and Date of Birth \_\_\_\_\_  
12 Town or City State

13 Date \_\_\_\_\_

14 5. Are you a citizen of the United States? Yes \_\_\_\_ No \_\_\_\_

15 If a naturalized citizen, give name of court where and date when naturalized  
16 \_\_\_\_\_

17 6. Place last registered to vote \_\_\_\_\_  
18 Street Ward Number

19 [~~I am not currently registered to vote elsewhere (initial here \_\_\_\_\_), or I request that my name~~  
20 ~~be removed as a registered voter in \_\_\_\_\_ (fill in your address where~~  
21 ~~previously registered, street, city/town, state, and zip code)]~~

22 7. Name under which previously registered, if different from above  
23 \_\_\_\_\_

24 8. Party Affiliation (if any) \_\_\_\_\_

25 9. Driver's License Number \_\_\_\_\_ State \_\_\_\_\_

26 If you do not have a valid driver's license, provide the last four digits of your social security number  
27 \_\_\_\_\_

28 My name is \_\_\_\_\_. I am today registering to vote in the city/town of  
29 \_\_\_\_\_, New Hampshire. If a city, ward number \_\_\_\_\_.

30 I understand that to vote in this [ward]city/town, I must be at least 18 years of age, I must be a  
31 United States citizen, and I must be domiciled in this ward/town. *I understand that I can claim*  
32 *only one city/town as my domicile at a time. A domicile is that place, more than any other,*  
33 *where I sleep most nights of the year, or to which I intend to return after a temporary*  
34 *absence. By registering to vote today, I acknowledge that I am not registering to vote or*  
35 *voting in any other city/town.*

36 [~~I understand that a person can claim only one state and one city/town as his or her domicile at~~  
37 ~~a time. A domicile is that place, to which upon temporary absence, a person has the intention of~~  
38 ~~returning. By registering or voting today, I am acknowledging that I am not domiciled or voting in~~

1 ~~any other state or any other city/town.~~

2 In declaring New Hampshire as my domicile, I realize that I am not qualified to vote in the state  
3 or federal elections in another state.

4 If I have any questions as to whether I am entitled to vote in this city/town, I am aware that a  
5 supervisor of the checklist is available to address my questions or concerns.]

6 I acknowledge that I have read and understand the above qualifications for voting and do  
7 hereby swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the  
8 above-stated city/town, and, if registering on election day, that I have not voted and will not vote at  
9 any other polling place this election.

10 \_\_\_\_\_

11 Date Signature of Applicant

12 In accordance with RSA 659:34, the penalty for knowingly or purposely providing false  
13 information when registering to vote or voting is a class A misdemeanor with a maximum sentence  
14 of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to  
15 vote or voting is subject to a civil penalty not to exceed \$5,000.

16 (c) The secretary of state shall prescribe the form of the voter registration form to be  
17 used only for voter registrations, transfers, or updates [~~starting 30 days before each election and~~] at  
18 the polling place on *the day of a state general* election [~~day~~], which shall be in substantially the  
19 following form:

- 20  NEW REGISTRATION I am not registered to vote in New Hampshire
- 21  TRANSFER I am registered to vote in New Hampshire and have moved my voting domicile to a  
22 new town or ward in New Hampshire
- 23  NAME CHANGE/ADDRESS UPDATE I am registered to vote in this town/ward and have  
24 changed my name/address
- 25 Date [~~registration form is submitted~~] \_\_\_\_\_
- 26 [~~Date applicant moved to the address listed below as the voter's domicile \_\_\_\_\_~~]

27 VOTER REGISTRATION FORM

28 FOR USE [~~STARTING 30 DAYS BEFORE AN ELECTION AND~~] AT THE POLLING PLACE ON  
29 *THE DAY OF A STATE GENERAL ELECTION* [~~DAY~~]

30 (Please print or type)

31 1. Name \_\_\_\_\_

	Last (suffix)	First	Full Middle Name
--	---------------	-------	------------------

33 2. [~~Domicile~~] Address \_\_\_\_\_

Street	Ward Number
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Town or City	Zip Code
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37 3. Mailing Address if different than in 2 \_\_\_\_\_

38 Street

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\_\_\_\_\_

Town or City

Zip Code

4. Place and Date of Birth \_\_\_\_\_

Town or City

State

Date \_\_\_\_\_

5. Are you a citizen of the United States? Yes \_\_\_\_\_ No \_\_\_\_\_

If a naturalized citizen, give name of court where and date when naturalized

\_\_\_\_\_

6. Place last registered to vote \_\_\_\_\_

Street

Ward Number

~~[I am not currently registered to vote elsewhere (initial here \_\_\_\_\_), or I request that my name be removed as a registered voter in \_\_\_\_\_ (fill in your address where previously registered, street, city/town, state, and zip code)]~~

7. Name under which previously registered, if different from above

\_\_\_\_\_

8. Party Affiliation (if any) \_\_\_\_\_

9. Driver's License Number \_\_\_\_\_ State \_\_\_\_\_

If you do not have a valid driver's license, provide the last four digits of your social security number \_\_\_\_\_

My name is \_\_\_\_\_. I am today registering to vote in the city/town of \_\_\_\_\_, New Hampshire. If a city, ward number \_\_\_\_\_.

I understand that to vote in this ward/town, I must be at least 18 years of age, I must be a United States citizen, and I must be domiciled in this ward/town.

I understand that a person can claim only one state and one city/town as his or her domicile at a time. A domicile is that place, to which upon temporary absence, a person has the intention of returning. By registering or voting today, I am acknowledging that I am not domiciled or voting in any other state or any other city/town.

In declaring New Hampshire as my domicile, I realize that I am not qualified to vote in the state or federal elections in another state.

If I have any questions as to whether I am entitled to vote in this city/town, I am aware that a supervisor of the checklist is available to address my questions or concerns.

~~[I understand that to make the address I have entered above my domicile for voting I must have an intent to make this the one place from which I participate in democratic self government and must have acted to carry out that intent.~~

~~I understand that if I have documentary evidence of my intent to be domiciled at this address when registering to vote, I must either present it at the time of registration or I must place my initials next to the following paragraph and mail a copy or present the document at the town or city clerk's office within 10 days following the election (30 days in towns where the clerk's office is open~~

1 fewer than 20 hours weekly).

2 ~~\_\_\_\_\_ By placing my initials next to this paragraph, I am acknowledging that I have not presented~~  
3 ~~evidence of actions carrying out my intent to be domiciled at this address, that I understand that I~~  
4 ~~must mail or personally present to the clerk's office evidence of actions carrying out my intent~~  
5 ~~within 10 days following the election (or 30 days in towns where the clerk's office is open fewer than~~  
6 ~~20 hours weekly), and that I have received the document produced by the secretary of state that~~  
7 ~~describes the items that may be used as evidence of a verifiable action that establishes domicile.~~

8 ~~Failing to report and provide evidence of a verifiable action will prompt official mail to be sent to~~  
9 ~~your domicile address by the secretary of state to verify the validity of your claim to a voting~~  
10 ~~domicile at this address.~~

11 ~~I understand that if I do not have any documentary evidence of my intent to be domiciled at this~~  
12 ~~address, I must place my initials next to the following paragraph:~~

13 ~~\_\_\_\_\_ By placing my initials next to this paragraph, I am acknowledging that I am aware of no~~  
14 ~~documentary evidence of actions carrying out my intent to be domiciled at this address, that I will~~  
15 ~~not be mailing or delivering evidence to the clerk's office, and that I understand that officials will be~~  
16 ~~sending mail to the address on this form or taking other actions to verify my domicile at this~~  
17 ~~address.]~~

18 I acknowledge that I have read and understand the above qualifications for voting and do  
19 hereby swear, under the penalties for voting fraud set forth below, that I am qualified to vote in the  
20 above-stated city/town, and, if registering on election day, that I have not voted and will not vote at  
21 any other polling place this election.

22 \_\_\_\_\_

23 Date Signature of Applicant

24 If this form is used in place of proof of identity, age, or citizenship, I hereby swear that such  
25 information is true and accurate to the best of my knowledge.

26 This form was executed for purposes of proving (applicant shall circle yes or no and initial each  
27 item):

28 Identity yes/no \_\_\_\_\_  
29 (initials)

30 Citizenship yes/no \_\_\_\_\_  
31 (initials)

32 Age yes/no \_\_\_\_\_  
33 (initials)

34 **Domicile** yes/no \_\_\_\_\_  
35 (initials)

36 \_\_\_\_\_

\_\_\_\_\_

37 Applicant

Election Official

38 \_\_\_\_\_

1 Notary Public/Justice of the Peace/Official Authorized by RSA 659:30

2 In accordance with RSA 659:34, the penalty for knowingly or purposely providing false  
 3 information when registering to vote or voting is a class A misdemeanor with a maximum sentence  
 4 of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to  
 5 vote or voting is subject to a civil penalty not to exceed \$5,000. ~~[In accordance with RSA 659:34 a~~  
 6 ~~voting in more than one state in the same election is a class B felony with a maximum sentence of~~  
 7 ~~imprisonment not to exceed 7 years and a fine not to exceed \$4,000.~~

8 ~~V. The secretary of state shall prepare and distribute an addendum to the voter registration~~  
 9 ~~form used under subparagraph IV(e) to be distributed to those registrants who register within 30~~  
 10 ~~days before the election or on election day and who do not provide proof of domicile or a verifiable~~  
 11 ~~action to demonstrate domicile. The "verifiable action of domicile" document shall provide notice of~~  
 12 ~~the requirements that registrants must furnish documentary evidence of domicile and shall be in~~  
 13 ~~substantially the following form:~~

14 Verifiable Action of Domicile

15 As a newly registered voter, you have received this document because you did not provide proof  
 16 of domicile when you registered to vote. RSA 654:2, IV requires you to provide evidence that you  
 17 have taken a verifiable act to establish domicile.

18 The following checklist shall be used as a guide for what you may use as evidence and shall be  
 19 submitted to the town or city clerk along with documentation that you are required to provide.  
 20 Only one item on the list is required to demonstrate a verifiable act.

21 To establish that you have engaged in a verifiable act establishing domicile, provide evidence that  
 22 you have done at least one of the following:

23 ~~\_\_\_ established residency, as set forth in RSA 654:1, I-a, at an institution of learning at the address~~  
 24 ~~on the voter registration form~~

25 ~~\_\_\_ rented or leased an abode, for a period of more than 30 days, to include time directly prior to an~~  
 26 ~~election day at the address listed on the voter registration form~~

27 ~~\_\_\_ purchased an abode at the address listed on the voter registration form~~

28 ~~\_\_\_ obtained a New Hampshire resident motor vehicle registration, driver's license, or identification~~  
 29 ~~card issued under RSA 260:21, RSA 260:21-a, or RSA 260:21-b listing the address on the voter~~  
 30 ~~registration form~~

31 ~~\_\_\_ enrolled a dependent minor child in a publicly funded elementary or secondary school which~~  
 32 ~~serves the town or ward of the address where the registrant resides, as listed on the voter~~  
 33 ~~registration form~~

34 Identified the address on the voter registration form as your physical residence address on:

35 ~~\_\_\_ state or federal tax forms~~

36 ~~\_\_\_ other government issued forms or identification. Describe form of identification:~~  
 37 ~~\_\_\_\_\_~~

38 ~~\_\_\_ provided the address on the voter registration form to the United States Post Office as your~~

1 permanent address, provided it is not a postal service or commercial post office box, where mail is  
2 delivered to your home. This can be by listing the address on the voter registration form as your  
3 new address on a Postal Service permanent change of address form and providing a copy of the  
4 receipt, or an online emailed receipt

5 ~~\_\_\_ obtained public utility services (electricity, cable, gas, water, etc.) for an indefinite period at the  
6 address on the voter registration form. List services obtained: \_\_\_\_\_~~

7 ~~\_\_\_ arranged for a homeless shelter or similar service provider to receive United States mail on your  
8 behalf. Enter name of the shelter or provider: \_\_\_\_\_~~

9 ~~\_\_\_ describe what other verifiable action or actions you have taken to make the address listed on  
10 your voter registration form your one voting domicile: \_\_\_\_\_~~

11 If you have no other proof of a verifiable act establishing domicile, and your domicile is at an  
12 abode rented, leased, or purchased by another and your name is not listed on the rental agreement,  
13 lease, or deed, you are required to provide a written statement, signed under penalty of voting fraud  
14 if false information is provided, from a person who is listed on such document, or other reasonable  
15 proof of ownership or control of the property, attesting that you reside at that address, signed by  
16 that person or his or her agent who manages the property.

17 This verifiable action of domicile form, along with your written statement or other  
18 documentation proving a verifiable act, shall be delivered to the town or city clerk, by mail or in  
19 person, with 10 days, or within 30 days if the clerk's office is open fewer than 20 hours weekly.

20 Name \_\_\_\_\_

21 Last (suffix) \_\_\_\_\_ First \_\_\_\_\_ Full Middle Name \_\_\_\_\_

22 Domicile Address \_\_\_\_\_

23 Street \_\_\_\_\_ Ward Number \_\_\_\_\_

25 Town or City \_\_\_\_\_ Zip Code \_\_\_\_\_

27 Date \_\_\_\_\_ Signature of Applicant \_\_\_\_\_

28 This document was received by the clerk, who examined and returned it to the applicant after  
29 making a copy of the evidence of verifiable action, said copy to be attached to the verifiable action of  
30 domicile form.

32 Date \_\_\_\_\_ Signature of Clerk \_\_\_\_\_

33 The clerk shall forward the completed form and attachment or attachments to the supervisors of  
34 the checklist as soon as possible, but not later than their next meeting. The supervisors of the  
35 checklist shall attach the form and attachments to the voter registration form.]

36 4 General Voter Registration; Registering at the Polling Place; Election Day Registration.  
37 Amend RSA 654:7-a, I to read as follows:

38 I. The provisions of this section and those of RSA 654:7-b shall be used as an additional

1 procedure for voter registration. For the purposes of this section and RSA 654:7-b, the term  
2 "election day" shall refer to state primary and to state general elections, to all town, city, school  
3 district, and village district elections, and to all official ballot meetings where persons may vote by  
4 absentee ballot. A person who registers to vote on election day according to the provisions of this  
5 section shall also be required to complete the voter registration form provided for in RSA 654:7[  
6 IV(e)]. The provisions of this section and those of RSA 654:7-b shall apply notwithstanding any  
7 provision of RSA 654 to the contrary.

8 5 General Voter Registration; Effect of Registration on Election Day. Amend RSA 654:7-b to  
9 read as follows:

10 654:7-b Effect of Registration on Election Day. Any person who registers to vote on election day  
11 according to the provisions of RSA 654:7-a shall be registered to vote at all subsequent town, [city,  
12 school district, village district,] state, and federal elections [unless the person's name is removed  
13 from the checklist in accordance with the provisions of this chapter].

14 6 Voter Registration; Determining Qualifications of Applicant. Amend RSA 654:12 to read as  
15 follows:

16 654:12 Determining Qualifications of Applicant.

17 I. When determining the qualifications of an applicant, the supervisors of the checklist, or  
18 the town or city clerk, shall require the applicant to present proof of citizenship, age, and domicile,  
19 as provided in the following categories:

20 (a) CITIZENSHIP. The supervisors of the checklist, or the town or city clerk, shall  
21 accept from the applicant any one of the following as proof of citizenship: the applicant's birth  
22 certificate, passport, naturalization papers if the applicant is a naturalized citizen, a qualified voter  
23 affidavit, a sworn statement on the *general election day* voter registration form used [starting 30  
24 days before an election and on election day], or any other reasonable documentation which indicates  
25 the applicant is a United States citizen. The qualified voter affidavit shall be in the following form,  
26 and shall be retained in accordance with RSA 33-A:3-a:

27 Date: \_\_\_\_\_

28 QUALIFIED VOTER AFFIDAVIT (Identity, Citizenship, Age)

29 Name: \_\_\_\_\_

30 Name at birth if different: \_\_\_\_\_

31 Place of birth: \_\_\_\_\_

32 Date of birth: \_\_\_\_\_

33 Date and Place of Naturalization: \_\_\_\_\_

34 Domicile Address: \_\_\_\_\_

35 Mailing Address (if different): \_\_\_\_\_

36 Telephone number (requested but optional) \_\_\_\_\_

37 Email address (requested but optional) \_\_\_\_\_

38 I hereby swear and affirm, under the penalties for voting fraud set forth below, that I am not in

1 possession of some or all of the documents necessary to prove my identity, citizenship, and age and  
2 that I am the identical person whom I represent myself to be, that I am a duly qualified voter of this  
3 town (or ward), that I am a United States citizen, that I am at least 18 years of age as of this date or  
4 will be at the next election, and that to the best of my knowledge and belief the information above is  
5 true and correct.

6 \_\_\_\_\_  
7 (Signature of applicant)

8 In accordance with RSA 659:34, the penalty for knowingly or purposely providing false  
9 information when registering to vote or voting is a class A misdemeanor with a maximum sentence  
10 of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to  
11 vote or voting is subject to a civil penalty not to exceed \$5,000.

12 On the date shown above, before me, \_\_\_\_\_ (print name of notary public, justice of  
13 the peace, election officer), appeared \_\_\_\_\_ (print name of person whose signature is  
14 being notarized), (known to me or satisfactorily proven (circle one)) to be the person whose name  
15 appears above, and he or she subscribed his or her name to the foregoing affidavit and swore that  
16 the facts contained in this affidavit are true to the best of his or her knowledge and belief.

17 This affidavit was executed for purposes of proving (check all that apply):

- 18  Identity  
19  Citizenship  
20  Age

21 \_\_\_\_\_  
22 Notary Public/Justice of the Peace/Official Authorized by RSA 659:30

23 (b) AGE. Any reasonable documentation indicating the applicant will be 18 years of age  
24 or older at the next election, or, if the applicant does not have reasonable documentation in his or  
25 her possession at the place and time of voter registration, a qualified voter affidavit, which shall be  
26 retained in accordance with RSA 33-A:3-a, or a sworn statement on the *general election day* voter  
27 registration form [~~used starting 30 days before an election and on election day~~].

28 (c) DOMICILE.

29 [~~(1) Registering more than 30 days in advance of an election-~~

30 ~~(A) A person who possesses one of the following qualified documents identifying~~  
31 ~~the applicant's name and the address claimed as domicile must present that document when~~  
32 ~~applying for registration prior to election day: (i) New Hampshire driver's license or identification~~  
33 ~~card issued under RSA 260:21, RSA 260:21-a, or RSA 260:21-b; (ii) New Hampshire resident vehicle~~  
34 ~~registration; (iii) a picture identification issued by the United States government that contains a~~  
35 ~~current address; (iv) government issued check, benefit statement, or tax document. A person who~~  
36 ~~possesses such a document, but failed to bring it with the person when seeking to register to vote~~  
37 ~~shall be required to return when he or she can present one of these documents or to bring the~~  
38 ~~document and register on election day.~~

1 ~~(B) A person who attests under penalty of voter fraud that he or she does not~~  
 2 ~~possess any of the qualified documents listed in subparagraph (A) may present] Any reasonable~~  
 3 ~~documentation which indicates [of having established a physical presence at the place claimed as~~  
 4 ~~domicile, having an intent to make that place his or her domicile, and having taken a verifiable act~~  
 5 ~~to carry out that intent. The documentation must establish that it is more likely than not] that the~~  
 6 ~~applicant has a domicile and intends to maintain [that] a domicile, as defined in this chapter, [at~~  
 7 ~~least until election day] in the town, city, or ward in which he or she desires to vote[. Reasonable~~  
 8 ~~documentation may include, but is not limited to evidence of:~~

9 ~~(i) Residency, as set forth in RSA 654:1, I a, at an institution of learning at~~  
 10 ~~that place;~~

11 ~~(ii) Renting or leasing an abode at that place for a period of more than 30~~  
 12 ~~days, to include time directly prior to an election day;~~

13 ~~(iii) Purchasing an abode at that place;~~

14 ~~(iv) Enrolling the applicant's dependent minor child in a publicly funded~~  
 15 ~~elementary or secondary school which serves the town or ward of that place, using the address~~  
 16 ~~where the registrant resides;~~

17 ~~(v) Listing that place as the person's physical residence address on state or~~  
 18 ~~federal tax forms, other government identification showing the address, or other government forms~~  
 19 ~~showing the address;~~

20 ~~(vi) Providing the address of that place to the United States Post Office as~~  
 21 ~~the person's permanent address, provided it is not a postal service or commercial post office box;~~

22 ~~(vii) Obtaining public utility services for an indefinite period at that place;~~  
 23 ~~or~~

24 ~~(viii) Arranging for a homeless shelter or similar service provider located in~~  
 25 ~~the town or ward to receive United States mail on behalf of the individual.~~

26 ~~An applicant whose domicile is at an abode of another and whose name is not listed on the~~  
 27 ~~document offered as proof of domicile may provide a written statement from a person who is listed~~  
 28 ~~as owner, property manager, or tenant on the document that the applicant resides at that address,~~  
 29 ~~signed by that person under penalty of voting fraud if false information is provided.~~

30 ~~(2) Registering within 30 days before an election and on election day.~~

31 ~~(A) When registering within 30 days before an election or on election day as~~  
 32 ~~provided in RSA 654:7 a, if the applicant does not have in his or her possession at the polls one of~~  
 33 ~~the qualified documents listed in subparagraph (1) or other reasonable documentation which~~  
 34 ~~establishes that it is more likely than not that the applicant has a domicile at the address claimed in~~  
 35 ~~the town or ward in which he or she desires to vote, he or she may execute], or if the applicant~~  
 36 ~~does not have reasonable documentation in his or her possession at the place and time of~~  
 37 ~~voter registration, a sworn statement on the general election day voter registration form, or~~  
 38 ~~affidavit in the following form: [used starting 30 days before an election and on election day and~~

1 ~~initial the acknowledgment of domicile evidence obligation. If the applicant identifies on his or her~~  
 2 ~~application action taken to establish his or her domicile, which he or she has documentation of, he~~  
 3 ~~or she must agree to mail a copy of or present the document in person to the city or town clerk~~  
 4 ~~within 10 days, or where the town clerk's office is open fewer than 20 hours weekly, within 30 days.~~  
 5 ~~Copies of documents provided in compliance with this subparagraph are exempt from the public~~  
 6 ~~disclosure required by RSA 91-A. The clerk shall document receipt of a copy or completion of~~  
 7 ~~verification of a document presented in person and forward verification to the supervisors of the~~  
 8 ~~checklist. An applicant whose voter registration is approved based on an acknowledgment of a~~  
 9 ~~domicile evidence obligation who knowingly or purposely fails to provide a document to the city or~~  
 10 ~~town clerk as required by this paragraph shall be subject to the penalties of wrongful voting as~~  
 11 ~~established in RSA 659:34. The supervisors of the checklist shall initiate removing the name from~~  
 12 ~~the checklist of any such person who fails to provide proof of domicile by the deadline by sending~~  
 13 ~~the person the notice required by RSA 654:44.~~

14 (B) ~~A person registering within 30 days before an election or on election day who~~  
 15 ~~does not possess reasonable documentation of establishing domicile and has taken no verifiable~~  
 16 ~~action to carry out his or her intent to establish domicile at the address claimed on the voter~~  
 17 ~~registration application may nonetheless register to vote by initialing the paragraph on the~~  
 18 ~~registration form acknowledging that domicile may be verified. The supervisors of the checklist~~  
 19 ~~shall, as soon as practical following an election at which the person initials such paragraph to~~  
 20 ~~register and vote, attempt to verify that the person was domiciled at the address claimed on election~~  
 21 ~~day by means including, but not limited to:~~

22 (i) ~~Examining public records held by the town or city clerk, municipal~~  
 23 ~~assessing and planning offices, tax collector, or other municipal office that may house public records~~  
 24 ~~containing domicile confirmation; or~~

25 (ii) ~~Requesting 2 or more municipal officers or their agents or state election~~  
 26 ~~officers or their agents to visit the address and verify that the individual was domiciled there on~~  
 27 ~~election day. In unincorporated places that have not organized for the purposes of conducting~~  
 28 ~~elections, county officers may be asked to perform this function; or~~

29 (iii) ~~Referring the registrant's information to the secretary of state, who shall~~  
 30 ~~cause such further investigation as is warranted.~~

31 (C) ~~Any case where supervisors are unable to verify the applicant's domicile or~~  
 32 ~~where evidence exists of voting fraud shall be promptly reported to the secretary of state and to the~~  
 33 ~~attorney general, who shall cause such further investigation as is warranted.]~~

34 *DOMICILE AFFIDAVIT*

35 *Date:* \_\_\_\_\_

36 *Name:* \_\_\_\_\_

37 *Current Domicile Address:* \_\_\_\_\_

38 *Street*

*Ward Number*

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\_\_\_\_\_

Town or City Zip Code

Current Mailing Address (if different): \_\_\_\_\_

Street Ward Number

\_\_\_\_\_

Town or City Zip Code

Telephone Number (requested but optional): \_\_\_\_\_

Email Address (requested but optional): \_\_\_\_\_

Date when current domicile was established: Month: \_\_\_\_\_ Year: \_\_\_\_\_

Place and Date of Birth: \_\_\_\_\_

Address of Last Previous Domicile: \_\_\_\_\_

Street Ward Number

\_\_\_\_\_

Town or City Zip Code

I hereby swear and affirm, under the penalties for voting fraud set forth below, that I am not currently of necessary documents to prove my domicile and that my established domicile is at the current domicile address I have entered above. I understand that a person can claim only one state and one city/town as his or her domicile at a time. A domicile is that place, to which upon temporary absence, a person has the intention of returning. By registering or voting today, I am acknowledging that I am not domiciled or voting in any other city/town, and that to the best of my knowledge and belief the information above is true and correct.

\_\_\_\_\_  
(Signature of Applicant)

In accordance with RSA 659:34, the penalty for knowingly or purposely providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

On the date shown above, before me, \_\_\_\_\_ (print name of notary public, justice of the peace, election officer), appeared \_\_\_\_\_ (print name of person whose signature is being notarized), (known to me or satisfactorily proven (circle one)) to be the person whose name appears above, and he or she subscribed his or her name to the foregoing affidavit and swore that the facts contained in this affidavit are true to the best or his or her knowledge and belief.

\_\_\_\_\_  
Notary Public/Justice of the Peace/Official Authorized by RSA 659:30.

II. The supervisors may refuse to add the name of an applicant to the checklist if he or she fails to present the evidence or an affidavit as required by this section. Without limiting the

1 acceptance of other forms of proof of domicile or identity deemed reasonable by the supervisors:

2 (a) Any one of the following documents is presumptive evidence that the individual  
3 seeking to vote meets the domicile requirement, provided the document is currently valid, was  
4 issued to or in the name of the applicant, and shows the address the applicant claims as a domicile:

5 (1) New Hampshire driver's license.

6 (2) New Hampshire vehicle registration.

7 (3) Armed services identification, or other photo identification issued by the United  
8 States government.

9 (b) Any one of the following is presumptive evidence of the identity of an applicant  
10 sufficient to satisfy the identity requirement for an official authorized by RSA 659:30 to take the  
11 oath of an applicant swearing to a qualified voter, domicile, or election day affidavit or a sworn  
12 statement on the *general election day* voter registration form [~~used starting 30 days before an~~  
13 ~~election and on election day~~]:

14 (1) Photo driver's license issued by any state or the federal government.

15 (2) United States passport, armed services identification, or other photo  
16 identification issued by the United States government.

17 (3) Photo identification issued by local or state government.

18 (c) The presumptions established in this paragraph may be defeated by evidence  
19 establishing that it is more likely than not that the applicant is not qualified as a voter.

20 III. To prove the qualifications set forth in paragraphs I and II, an applicant for registration  
21 as a voter must prove his or her identity to establish that the evidence used to prove age,  
22 citizenship, and domicile relate to the applicant. A person who has in his or her immediate  
23 possession a photo identification approved for use by paragraph II must present that identification  
24 when applying for registration. A person who does not have an approved photo identification with  
25 him or her may establish identity through *any reasonable means, including, but not limited*  
26 *to: photo identification not approved by paragraph II, but determined to be legitimate by*  
27 *the supervisors of the checklist or clerk, verification of the person's identity by another*  
28 *person registered as a voter and known to the supervisor or clerk, or completion of the*  
29 *qualified voter affidavit, which shall be retained in accordance with RSA 33-A:3-a, or a sworn*  
30 *statement on the general election day voter registration form [~~used starting 30 days before an~~*  
31 *election and on election day]. Residents of a nursing home or similar facility may prove their*  
32 *identity through verification of identity by the administrator of the facility or by his or her designee.*  
33 *For the purposes of this section, the application of a person whose identity has been verified by an*  
34 *official of a nursing home or similar facility shall be treated in the same manner as the application*  
35 *of a person who proved his or her identity with a photo identification.*

36 IV. Any person who is applying for registration as a voter and who is currently registered  
37 to vote in a different town or ward in New Hampshire shall complete the voter registration form  
38 provided for in RSA 654:7. If the election official receiving the application confirms through the

1 centralized voter registration database required by RSA 654:45 that the applicant is currently  
2 registered to vote in New Hampshire, the applicant shall prove identity and domicile, but shall not  
3 be required to prove his or her age or citizenship.

4 V.(a) The election official approving the application for registration as voter of a person who  
5 does not present an approved form of photo identification as proof of identity when registering, shall  
6 mark the voter registration form to indicate that no photo identification was presented and shall  
7 inform the person that, if he or she is a first-time election day registrant in New Hampshire, he or  
8 she will receive a letter of identity verification. The person entering the voter information into the  
9 centralized voter registration database shall determine if the person is listed in the system as  
10 having been previously registered in the town or ward reported by the applicant on the voter  
11 registration form. If the person is a new registrant who has not been previously registered  
12 anywhere in New Hampshire or if the centralized voter registration database does not confirm a  
13 previous registration claimed on the voter registration form, the election official shall cause the  
14 record created in the centralized voter registration database to indicate that the person is a new  
15 applicant in New Hampshire and that no photo identification was presented. When municipalities  
16 enter information on people who register on election day into the centralized voter registration  
17 database, to the extent practical applicants who are registering for the first time in New Hampshire  
18 and who also register without presenting an approved photo identification shall be entered first.  
19 ~~[The person entering the voter information of election day residents into the centralized voter~~  
20 ~~registration database shall cause the records to indicate if the voter executed a sworn statement on~~  
21 ~~the voter registration form used starting 30 days before an election and on election day.]~~

22 (b) The secretary of state shall cause a letter of identity verification to be mailed by first  
23 class mail to each voter identified at ~~[any]~~ **a state general** election as a first-time election day  
24 registrant in New Hampshire who also did not verify his or her identity with an approved photo  
25 identification. The letter shall be mailed by January 10 in every odd-numbered year in the case of  
26 persons registering at a state primary or general election, or within 90 days after any other election.  
27 The secretary of state shall mark the envelope with instructions to the United States Post Office not  
28 to forward the letter and to provide address correction information. The letter shall notify the  
29 person that a person who was unable to present photo identification registered or registered and  
30 voted using his or her name and address and instruct the person to return the letter within 45 days  
31 with a written confirmation that the person registered and voted or to contact the attorney general  
32 immediately if he or she did not register and vote. Any voter under a protective order pursuant to  
33 RSA 173-B, and whose name does not appear on the checklist as provided under RSA 654:25, shall  
34 not be subject to the provisions of paragraph V.

35 (c) The secretary of state shall ~~[conduct an inquiry regarding]~~ **cause** any letters mailed  
36 pursuant to subparagraph (b) that are returned as undeliverable by the United States Post Office **to**  
37 **be referred to the attorney general. The secretary of state shall also prepare and forward**  
38 **to the attorney general a list of all** ~~[and those]~~ persons who were mailed letters under

1 subparagraph (b) and have not confirmed their registration. ~~[The inquiry may include consulting~~  
2 ~~with, and examining public records held by, municipal officials, which contain information relevant~~  
3 ~~to a person's qualifications to vote in New Hampshire, and interviewing persons living at the~~  
4 ~~address listed on the voter registration form. After such inquiry, the secretary of state shall~~  
5 ~~prepare and forward to the attorney general for investigation a list of those people whose identity or~~  
6 ~~eligibility to vote could not be confirmed.]~~ Upon receipt of notice from a person who receives a letter  
7 of identity verification that the person did not register and vote, or upon receipt of a referral from  
8 the secretary of state, the attorney general shall cause an investigation to be made to determine  
9 whether fraudulent registration or voting occurred.

10 ~~[(d) Within 90 days of each election, the secretary of state shall cause a list of persons~~  
11 ~~executing sworn statements on the voter registration form used starting 30 days before an election~~  
12 ~~and on election day since the prior election to be forwarded to the attorney general and the division~~  
13 ~~of motor vehicles. The secretary of state shall send a letter to each such person informing him or~~  
14 ~~her of a driver's obligation to obtain a New Hampshire driver's license within 60 days of becoming a~~  
15 ~~New Hampshire resident. The letter shall be mailed within 60 days after the election, except that if~~  
16 ~~the election is a state primary election, the letter shall be mailed 60 days after the general election,~~  
17 ~~and if the election is a regularly scheduled municipal election, the letter shall be mailed by the July~~  
18 ~~1 or January 1 next following the election. The secretary of state shall mark the envelope with~~  
19 ~~instructions to the United States Post Office not to forward the letter and to provide address~~  
20 ~~correction information.~~

21 ~~(e) The secretary of state shall conduct an inquiry regarding any letters mailed~~  
22 ~~pursuant to subparagraph (d) that are returned as undeliverable by the United States Post Office.~~  
23 ~~The inquiry may include consulting with, and examining public records held by, municipal officials,~~  
24 ~~which contain information relevant to a person's qualifications to vote in New Hampshire, and~~  
25 ~~interviewing persons living at the address listed on the letters. After such inquiry, the secretary of~~  
26 ~~state shall prepare and forward to the attorney general for investigation a list of those people whose~~  
27 ~~eligibility to vote could not be confirmed. The attorney general shall cause an investigation to be~~  
28 ~~made to determine whether fraudulent registration or voting occurred.~~

29 ~~(f) Upon completion of any investigation authorized under RSA 654:12, the secretary of~~  
30 ~~state and the attorney general shall forward a report summarizing the results of the inquiry and~~  
31 ~~investigation, respectively, to the speaker of the house of representatives, the president of the~~  
32 ~~senate, and the chairpersons of the appropriate house and senate standing committees with~~  
33 ~~jurisdiction over election law.]~~

34 7 Voter Checklists; Right to Know Exemption. Amend RSA 654:31-a to read as follows:

35 654:31-a Right to Know Exemption. The information contained on the checklist of a town or  
36 city, specifically, the name, domicile address, mailing address, town or city, and party affiliation, if  
37 any, of registered voters, except as otherwise provided by statute, is public information subject to  
38 RSA 91-A. All other information on the voter registration form, absentee registration affidavit,

1 qualified voter *and domicile* affidavits, affidavit of religious exemption, and application for  
2 absentee ballot shall be treated as confidential information and the records containing this  
3 information shall be exempt from the public disclosure provisions of RSA 91-A, except as provided  
4 by statutes other than RSA 91-A. Notwithstanding the foregoing, qualified voter *and domicile*  
5 affidavits are public records subject to RSA 91-A for the sole purpose of challenging an individual  
6 registering to vote or voting, challenging ballots to be recounted, to the extent that such ballot  
7 challenges are specifically authorized by law, or determining the accuracy of any qualified voter *or*  
8 *domicile* affidavit. Election officials and law enforcement personnel in furtherance of their official  
9 duties may access and may disclose information from the voter registration form, qualified voter  
10 *and domicile* affidavits, affidavits of religious exemption, absentee registration affidavits, and  
11 applications for absentee ballots, if necessary to resolve a challenge to an individual registering to  
12 vote or voting, or if necessary to investigate or prosecute election law violations or any crime. Law  
13 enforcement access and use of such records for the investigation or prosecution of crimes unrelated  
14 to election law violations shall be limited to the records of the specific individuals who are the  
15 subject of the investigation or prosecution.

16 8 Voters and Checklists; Centralized Voter Registration Database. Amend RSA 654:45, VIII to  
17 read as follows:

18 VIII.~~(a)~~ The secretary of state may enter into an agreement to share voter information or  
19 data from the statewide centralized voter registration database for the purpose of comparing  
20 duplicate voter information with other states or groups of states. The secretary of state shall only  
21 provide information that is necessary for matching duplicate voter information with other states  
22 and shall take precautions to make sure that information in the database is secure in a manner  
23 consistent with RSA 654:45, VI. The secretary of state may solicit input from the department of  
24 safety and the department of information technology and shall ensure that any information or data  
25 shared between the agencies that is of a confidential nature remains confidential.

26 ~~[(b) The secretary of state shall investigate any duplicate matches of voters resulting~~  
27 ~~from any comparisons of the statewide centralized voter registration database with other states. If~~  
28 ~~the investigation results in the inability to confirm the eligibility of a person or persons who voted,~~  
29 ~~or there is reason to believe a person or persons voted who were not eligible, the secretary of state~~  
30 ~~shall forward the results to the attorney general for further investigation or prosecution.~~

31 ~~(e) Upon completion of any investigation authorized under RSA 654:45, VIII(b), the~~  
32 ~~attorney general and the secretary of state shall forward a report summarizing the results of the~~  
33 ~~investigation to the speaker of the house of representatives, the president of the senate, and the~~  
34 ~~chairpersons of the appropriate house and senate standing committees with jurisdiction over~~  
35 ~~election law.]~~

36 9 Voting Procedure; Obtaining a Ballot. Amend RSA 659:13, IV(b) to read as follows:

37 (b) The secretary of state shall ~~[conduct an inquiry regarding]~~ *prepare a list of voters*  
38 *from* any letters mailed pursuant to subparagraph (a) that are returned as undeliverable by the

1 United States Post Office and of voters who were mailed letters under subparagraph (a) and have  
 2 not responded to the secretary of state. [~~The inquiry may include consulting with, and examining~~  
 3 ~~public records held by, municipal officials, which contain information relevant to a person's~~  
 4 ~~qualifications to vote in New Hampshire, and interviewing persons living at the address listed on~~  
 5 ~~the letters. After such inquiry, the secretary of state shall prepare and forward to the attorney~~  
 6 ~~general for investigation a list of those people whose identity or eligibility to vote could not be~~  
 7 ~~confirmed.] *The secretary of state shall revise the list based on input solicited from the*  
 8 *supervisors of the checklist. The secretary of state shall forward the revised list of names*  
 9 *to the attorney general who shall cause an investigation to be made to determine whether*  
 10 *fraudulent voting occurred.*~~

11 10 Election Procedure; Challenges; Affidavit. Amend RSA 659:30 to read as follows:

12 659:30 Affidavit. The affidavit of a challenged voter, an asserting a challenge form, a qualified  
 13 voter affidavit, *a voter domicile affidavit*, or any other affidavit required by the election statutes  
 14 may be sworn before any person authorized by law to administer oaths or before any election officer.

15 11 Wrongful Voting; Penalties for Voter Fraud. Amend RSA 659:34, I(a) to read as follows:

16 (a) When registering to vote; when obtaining an official ballot; when casting a vote by  
 17 official ballot; or when applying for a photo identification card for voting purposes, purposely or  
 18 knowingly makes a false material statement regarding his or her qualifications as a voter to an  
 19 election officer or submits a voter registration form, an election day registration affidavit, a  
 20 qualified voter affidavit, *a domicile affidavit*, a challenged voter affidavit, an affidavit of religious  
 21 exemption, an identification card voucher, or an absentee registration affidavit containing false  
 22 material information regarding his or her qualifications as a voter;

23 12 Wrongful Voting; Penalties for Voting Fraud. Amend RSA 659:34, I(f)-(g) to read as follows:

24 (f) Gives a false name or answer if under examination as to his or her qualifications as a  
 25 voter before the supervisors of the checklist or moderator; *or*

26 (g) Presents falsified proof of identity [~~domicile, or verifiable action of domicile at any~~  
 27 ~~election;].~~

28 13 Repeal. The following are repealed: RSA 659:34, I(h)-(i), relative to penalties for voter  
 29 fraud.

30 14 Preservation of Absentee Voting Materials and Election Day Affidavits. Amend RSA  
 31 659:101 to read as follows:

32 659:101 Preservation of Absentee Voting Materials, and Election Day Affidavits, *and Domicile*  
 33 *Affidavits*. The absentee ballot affidavits and application forms processed by the moderator as  
 34 provided in RSA 659:50, the absentee ballots challenged and rejected as provided in RSA 659:51 and  
 35 RSA 659:53, and the qualified voter affidavits *and domicile affidavits* as provided in RSA 654:12  
 36 and any other documentary proof of qualifications retained by the town or city clerk, the  
 37 supervisors of the checklist, or other election official shall be preserved in accordance with RSA 33-  
 38 A:3-a. Qualified voter [~~and~~], voter registration, *and domicile* affidavits shall be retained for the

1 period set forth in RSA 33-A:3-a, and other materials may be destroyed after the election is settled  
2 and all appeals have expired or one year after the election, whichever is longer.

3 15 Disposition of Municipal Records; Domicile Affidavit. Amend RSA 33-A:3-a, CXLI(f) to read  
4 as follows:

5 (f) ~~[Verifiable action of domicile document]~~ *Domicile affidavit*: until voter is removed  
6 from checklist plus 7 years.

7 16 Effective Date. This act shall take effect 60 days after its passage.