HB 40 - AS INTRODUCED

2023 SESSION

23-0038
06/10

HOUSE BILL ***40***

AN ACT relative to domicile residency, voter registration, and investigation of voter verification letters, and relative to the terms "resident," "inhabitant," "residence," and "residency."

SPONSORS: Rep. Horrigan, Straf. 10; Rep. Preece, Hills. 17; Rep. Selig, Straf. 10

COMMITTEE: Election Law

ANALYSIS

This bill modifies the definition of domicile for voting purposes, modifies forms and procedures used for voter registration, and removes the requirement that the secretary of state conduct post-election voter registration inquiries. This bill also amends the general statutory definitions of "resident or inhabitant" and "residence or residency" to include an intent to maintain a principal place of physical presence for the indefinite future.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

23-0038
06/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to domicile residency, voter registration, and investigation of voter verification letters, and relative to the terms "resident," "inhabitant," "residence," and "residency."

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

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

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

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

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

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

[~~II.(a) A person present in New Hampshire for temporary purposes shall not gain a domicile for voting purposes. A person who maintains a voting domicile where he or she came from, to which he or she intends to return to as his or her voting domicile after a temporary presence in New~~

~~Hampshire, does not gain a domicile in New Hampshire regardless of the duration of his or her presence in New Hampshire.~~

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

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

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

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

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

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

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

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

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

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

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

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

~~(e) An applicant whose domicile is at an abode rented, leased, or owned by another and~~

~~whose name is not listed on the rental agreement, lease, or deed may provide a written statement from a person who is listed on the rental agreement, lease, or deed, or other reasonable proof of ownership or control of the property or his or her agent who manages the property that the applicant resides at that address, signed by the owner or manager of the property under penalty of voting fraud if false information is provided.~~

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

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

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

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

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

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

~~VI. Any case where supervisors are unable to verify the applicant's domicile or where~~

~~evidence exists of voting fraud shall be promptly reported to the secretary of state and to the attorney general, who shall cause such further investigation as is warranted. After receiving confirmation from the secretary of state that an individual is not domiciled at the address provided, the supervisors shall also initiate removal of the person from the checklist by sending the person the notice required by RSA 654:44.~~]

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

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

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

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

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

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

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

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

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

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

___ NEW REGISTRATION I am not registered to vote in New Hampshire

___ TRANSFER I am registered to vote in New Hampshire and have moved my voting domicile to a new town or ward in New Hampshire

___ NAME CHANGE/ADDRESS UPDATE I am registered to vote in this town/ward and have

changed my name/address

Date _____

VOTER REGISTRATION FORM

(Please print or type)

1. Name _____

Last (suffix) First Full Middle Name

2. [~~Domicile~~] Address _____

Street Ward Number

_____

Town or City Zip Code

3. Mailing Address if different than in 2 _____

Street

_____

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 I can claim only one city/town as my domicile at a time. A domicile is that place, more than any other, where I sleep most nights of the year, or to which I intend to return after a temporary***

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

_____ _____

Date 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.

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

___ NEW REGISTRATION I am not registered to vote in New Hampshire

___ TRANSFER I am registered to vote in New Hampshire and have moved my voting domicile to a new town or ward in New Hampshire

___ NAME CHANGE/ADDRESS UPDATE I am registered to vote in this town/ward and have changed my name/address

Date [~~registration form is submitted~~] _____

[~~Date applicant moved to the address listed below as the voter's domicile _____~~]

VOTER REGISTRATION FORM

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

(Please print or type)

1. Name _____

Last (suffix) First Full Middle Name

2. [~~Domicile~~] Address _____

Street Ward Number

_____

Town or City Zip Code

3. Mailing Address if different than in 2 _____

Street

_____

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 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.~~

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

~~_____ 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.~~]

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

_____ _____

Date Signature of Applicant

If this form is used in place of proof of identity, age, or citizenship, 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)

_____ _____
Applicant Election Official

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

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. [~~In accordance with RSA 659:34-a voting in more than one state in the same election is a class B felony with a maximum sentence of imprisonment not to exceed 7 years and a fine not to exceed $4,000.~~

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

~~Verifiable Action of Domicile~~

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

~~The 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. Only one item on the list is required to demonstrate a verifiable act.~~

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

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

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

~~___ purchased an abode at the address listed on the voter registration form~~

~~___ obtained a New Hampshire resident motor vehicle registration, driver's license, or~~

~~identification card issued under RSA 260:21, RSA 260:21-a, or RSA 260:21-b listing the address on the voter registration form~~

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

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

~~___ state or federal tax forms~~

~~___ other government-issued forms or identification. Describe form of identification: _____~~

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

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

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

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

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

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

~~Name _____~~

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

~~Domicile Address _____~~

~~Street Ward Number~~

~~_____~~

~~Town or City Zip Code~~

~~_____ _____~~

~~Date Signature of Applicant~~

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

~~Date Signature of Clerk~~

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

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

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

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

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

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

654:12 Determining Qualifications of Applicant.

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

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

Date: _____

QUALIFIED VOTER AFFIDAVIT (Identity, Citizenship, Age)

Name: _____

Name at birth if different: _____

Place of birth: _____

Date of birth: _____

Date and Place of Naturalization: _____

Domicile Address: _____

Mailing Address (if different): _____

Telephone number (requested but optional) _____

Email address (requested but optional) _____

I hereby swear and affirm, under the penalties for voting fraud set forth below, that I am not in possession of some or all of the documents necessary to prove my identity, citizenship, and age and that I am the identical person whom I represent myself to be, that I am a duly qualified voter of this town (or ward), that I am a United States citizen, that I am at least 18 years of age as of this date or will be at the next election, 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 of his or her knowledge and belief.

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

[ ] Identity

[ ] Citizenship

[ ] Age

_____

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

(b) AGE. Any reasonable documentation indicating the applicant will be 18 years of age or older at the next election, or, if the applicant does not have reasonable documentation in his or her possession at the place and time of voter registration, a qualified voter affidavit, which shall be

retained in accordance with RSA 33-A:3-a, or a sworn statement on the ***general election day*** voter registration form [~~used starting 30 days before an election and on election day~~].

(c) DOMICILE.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(A) When registering within 30 days before an election or on election day as provided in RSA 654:7-a, if the applicant does not have in his or her possession at the polls one of the qualified documents listed in subparagraph (1) or other reasonable documentation which establishes that it is more likely than not that the applicant has a domicile at the address claimed in the town or ward in which he or she desires to vote, he or she may execute~~]***, or if the applicant does not have reasonable documentation in his or her possession at the place and time of voter registration,*** a sworn statement on the ***general election day*** voter registration form***, or affidavit in the following form:*** [~~used starting 30 days before an election and on election day and initial the acknowledgment of domicile evidence obligation. If the applicant identifies on his or her application action taken to establish his or her domicile, which he or she has documentation of, he or she must agree to mail a copy of or present the document in person to the city or town clerk within 10 days, or where the town clerk's office is open fewer than 20 hours weekly, within 30 days. Copies of documents provided in compliance with this subparagraph are exempt from the public disclosure required by RSA 91-A. The clerk shall document receipt of a copy or completion of verification of a document presented in person and forward verification to the supervisors of the checklist. An applicant whose voter registration is approved based on an acknowledgment of a domicile evidence obligation who knowingly or purposely fails to provide a document to the city or town clerk as required by this paragraph shall be subject to the penalties of wrongful voting as established in RSA 659:34. The supervisors of the checklist shall initiate removing the name from the checklist of any such person who fails to provide proof of domicile by the deadline by sending the person the notice required by RSA 654:44.~~

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

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

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

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

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

DOMICILE AFFIDAVIT

Date:_____

Name:_____

Current Domicile Address:_____

Street ***Ward Number***

_____

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

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

(1) New Hampshire driver's license.

(2) New Hampshire vehicle registration.

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

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

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

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

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

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

III. To prove the qualifications set forth in paragraphs I and II, an applicant for registration as a voter must prove his or her identity to establish that the evidence used to prove age, citizenship, and domicile relate to the applicant. A person who has in his or her immediate possession a photo

identification approved for use by paragraph II must present that identification when applying for registration. A person who does not have an approved photo identification with him or her may establish identity through ***any reasonable means, including, but not limited to: photo identification not approved by paragraph II, but determined to be legitimate by the supervisors of the checklist or clerk, verification of the person's identity by another person registered as a voter and known to the supervisor or clerk, or*** completion of the qualified voter affidavit, which shall be retained in accordance with RSA 33-A:3-a, or a sworn statement on the ***general election day*** voter registration form [~~used starting 30 days before an election and on election day~~]. Residents of a nursing home or similar facility may prove their identity through verification of identity by the administrator of the facility or by his or her designee. For the purposes of this section, the application of a person whose identity has been verified by an official of a nursing home or similar facility shall be treated in the same manner as the application of a person who proved his or her identity with a photo identification.

[~~III-a. The supervisors of the checklist, town or city clerk, or election day official shall take a photograph of any person who registers using a qualified voter affidavit or sworn statement on the general election day registration form. Such photograph shall be retained in the same manner as qualified voter affidavits pursuant to RSA 33-A:3-a, CXLI(e). The photograph may be used for purposes of RSA 659:13, I(e).~~]

IV. Any person who is applying for registration as a voter and who is currently registered to vote in a different town or ward in New Hampshire shall complete the voter registration form provided for in RSA 654:7. If the election official receiving the application confirms through the centralized voter registration database required by RSA 654:45 that the applicant is currently registered to vote in New Hampshire, the applicant shall prove identity and domicile, but shall not be required to prove his or her age or citizenship.

V.(a) The election official approving the application for registration as voter of a person who does not present an approved form of photo identification as proof of identity when registering, shall mark the voter registration form to indicate that no photo identification was presented and shall inform the person that, if he or she is a first-time election day registrant in New Hampshire, he or she will receive a letter of identity verification. The person entering the voter information into the centralized voter registration database shall determine if the person is listed in the system as having been previously registered in the town or ward reported by the applicant on the voter registration form. If the person is a new registrant who has not been previously registered anywhere in New Hampshire or if the centralized voter registration database does not confirm a previous registration claimed on the voter registration form, the election official shall cause the record created in the centralized voter registration database to indicate that the person is a new applicant in New Hampshire and that no photo identification was presented. When municipalities enter information on people who register on election day into the centralized voter registration database, to the extent

practical applicants who are registering for the first time in New Hampshire and who also register without presenting an approved photo identification shall be entered first. [~~The person entering the voter information of election day residents into the centralized voter registration database shall cause the records to indicate if the voter executed a sworn statement on the voter registration form used starting 30 days before an election and on election day.~~]

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

(c) The secretary of state shall [~~conduct an inquiry regarding~~] ***cause*** any letters mailed pursuant to subparagraph (b) that are returned as undeliverable by the United States Post Office ***to be referred to the attorney general. The secretary of state shall also prepare and forward to the attorney general a list of all*** [~~and those~~] persons who were mailed letters under subparagraph (b) and have not confirmed their registration. [~~The inquiry may include consulting with, and examining public records held by, municipal officials, which contain information relevant to a person's qualifications to vote in New Hampshire, and interviewing persons living at the address listed on the voter registration form. After such inquiry, the secretary of state shall prepare and forward to the attorney general for investigation a list of those people whose identity or eligibility to vote could not be confirmed.~~] Upon receipt of notice from a person who receives a letter of identity verification that the person did not register and vote, or upon receipt of a referral from the secretary of state, the attorney general shall cause an investigation to be made to determine whether fraudulent registration or voting occurred.

[~~(d) Within 90 days of each election, the secretary of state shall cause a list of persons executing sworn statements on the voter registration form used starting 30 days before an election and on election day since the prior election to be forwarded to the attorney general and the division of motor vehicles. The secretary of state shall send a letter to each such person informing him or her of a driver's obligation to obtain a New Hampshire driver's license within 60 days of becoming a New Hampshire resident. The letter shall be mailed within 60 days after the election, except that if the~~

~~election is a state primary election, the letter shall be mailed 60 days after the general election, and if the election is a regularly scheduled municipal election, the letter shall be mailed by the July 1 or January 1 next following the election. The secretary of state shall mark the envelope with instructions to the United States Post Office not to forward the letter and to provide address correction information.~~

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

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

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

654:31-a Right to Know Exemption. The information contained on the checklist of a town or city, specifically, the name, domicile address, mailing address, town or city, and party affiliation, if any, of registered voters, except as otherwise provided by statute, is public information subject to RSA 91-A. All other information on the voter registration form, absentee registration affidavit, qualified voter affidavits, domicile affidavits, affidavit of religious exemption, application for absentee ballot, and contact information, including but not limited to a phone number and email address, provided to the secretary of state or other election officials for the purpose of receiving information about elections shall be treated as confidential information and the records containing this information shall be exempt from the public disclosure provisions of RSA 91-A, except as provided by statutes other than RSA 91-A. Notwithstanding the foregoing, qualified voter ***and domicile*** affidavits are public records subject to RSA 91-A for the sole purpose of challenging an individual registering to vote or voting, challenging ballots to be recounted, to the extent that such ballot challenges are specifically authorized by law, or determining the accuracy of any qualified voter ***or domicile*** affidavit. Election officials and law enforcement personnel in furtherance of their official duties may access and may disclose information from the voter registration form, qualified voter ***and domicile*** affidavits, affidavits of religious exemption, absentee registration affidavits, and applications for absentee ballots, if necessary to resolve a challenge to an individual registering to vote or voting, or if necessary to investigate or prosecute election law violations or any crime. Law

enforcement access and use of such records for the investigation or prosecution of crimes unrelated to election law violations shall be limited to the records of the specific individuals who are the subject of the investigation or prosecution.

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

VIII.(a) The secretary of state may [~~enter into an agreement to share~~] ***become a member of a program or organization whose membership is composed of state, local, District of Columbia, or voting territory election officials from the United States and whose purposes is to share and exchange information to improve the accuracy and efficiency of voter registration systems. The secretary of state may enter into a membership agreement with such program or organization no later than January 1, 2024 and shall remain in good standing with such program or organization thereafter. On or before January 15, 2024, the secretary of state shall file a report with the speaker of the house of representatives, the president of the senate, and the chairpersons of the appropriate house and senate standing committees with jurisdiction over election law, that outlines the basis for the determination to participate or not participate in such program or organization. The report shall take into account such factors as standards, policies and procedures, security requirements, and usability. The secretary of state shall share with such program or organization*** voter information or data from the statewide centralized voter registration database for the purpose of comparing duplicate voter information with other states or groups of states. The secretary of state shall only provide information that is necessary for matching duplicate voter information with other states and shall take precautions to make sure that information in the database is secure in a manner consistent with RSA 654:45, VI. The secretary of state may solicit input from the department of safety and the department of information technology and shall ensure that any information or data shared between the agencies ***is protected by security processes and protocols and that any information or data*** that is of a confidential nature remains confidential.

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

(c) ***Upon the effective date of subparagraph (a), the secretary of state shall cease any activity or data transfer with the Kansas-based Interstate Voter Registration Crosscheck Program.***

(d) Upon completion of any investigation authorized under RSA 654:45, VIII(b), the attorney general and the secretary of state shall forward a report summarizing the results of the

investigation to the speaker of the house of representatives, the president of the senate, and the chairpersons of the appropriate house and senate standing committees with jurisdiction over election law.

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

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

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

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

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

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

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

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

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

13 Repeal. The following are repealed:

I. RSA 659:34, I(h)-(i), relative to penalties for voter fraud.

II. 2016, 175:2, relative to Interstate Voter Registration Crosscheck Program.

14 Preservation of Absentee Voting Materials [~~and~~] Election Day Affidavits. Amend RSA

659:101 to read as follows:

659:101 Preservation of Absentee Voting Materials**,** [~~and~~] Election Day Affidavits***, and Domicile Affidavits***.* The absentee ballot affidavits and application forms processed by the moderator as provided in RSA 659:50, the absentee ballots challenged and rejected as provided in RSA 659:51 and RSA 659:53, and the qualified voter affidavits ***and domicile affidavits*** as provided in RSA 654:12 and any other documentary proof of qualifications retained by the town or city clerk, the supervisors of the checklist, or other election official shall be preserved in accordance with RSA 33-A:3-a. Qualified voter [~~and~~]**,** voter registration***, and domicile*** affidavits shall be retained for the period set forth in RSA 33-A:3-a, and other materials may be destroyed after the election is settled and all appeals have expired or one year after the election, whichever is longer.

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

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

16 Statutory Construction; Resident; Inhabitant. Amend RSA 21:6 and 21:6-a to read as follows:

21:6 Resident; Inhabitant. A resident or inhabitant or both of this state and of any city, town or other political subdivision of this state shall be a person who is domiciled or has a place of abode or both in this state and in any city, town or other political subdivision of this state, and who has, through all of his or her actions, demonstrated a current intent to designate that place of abode as his or her principal place of physical presence ***for the indefinite future*** to the exclusion of all others.

21:6-a Residence. Residence or residency shall mean a person's place of abode or domicile. The place of abode or domicile is that designated by a person as his or her principal place of physical presence ***for the indefinite future*** to the exclusion of all others. Such residence or residency shall not be interrupted or lost by a temporary absence from it, if there is an intent to return to such residence or residency as the principal place of physical presence.

17 Funding. Funding for implementation of section 8 of this act shall be provided by grants received pursuant to the 2018 Help America Vote Act Election Security Award and section 101 of the Help America Vote Act of 2002, Public Law 107-252.

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

REGULAR CALENDAR

February 28, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Election Law to which was referred HB 40, relative to domicile residency, voter registration, and investigation of voter verification letters, and relative to the terms "resident," "inhabitant," "residence," and "residency."

WITHOUT RECOMMENDATION

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Election Law**
Bill Number:	**HB 40**
Title:	**relative to domicile residency, voter registration, and investigation of voter verification letters, and relative to the terms "resident," "inhabitant," "residence," and "residency."**
Date:	**February 28, 2023**
Consent Calendar:	**Regular Calendar**
Recommendation:	**WITHOUT RECOMMENDATION**

Statement in support of Ought to Pass: Supporters of Ought To Pass believe that the existing law creates unnecessary barriers for citizens seeking to exercise their constitutional right to vote, including the elderly, young adults, and the homeless. As confirmed by the Governor and the office of the Secretary of State, NH has never had evidence of significant voter fraud issues and, in fact, is known for its integrity.

Amendment:

Rep. Connie Lane

Statement in support of Inexpedient to Legislate: The proposed bill seeks to rollback much needed safeguards in NH election law, as well as erode the definitions of domicile and resident. This could lead to legal drive-by voting, where individuals need not stay in the state after the election. While the NH Supreme Court (NHSC) ruled SB3 unconstitutional in a 3-2 decision, the US Supreme Court released a ruling the day prior, directly contradicting the NHSC decision. It is likely that a future court challenge would reverse the ruling in NH. Therefore, it is recommended to leave the language in place and make minimal changes to address the NHSC's concerns while also recognizing the state's compelling interest in preventing voter fraud as outlined in the US Supreme Court's recent decision.

Amendment:

Rep. Ross Berry

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Election Law

HB 40, relative to domicile residency, voter registration, and investigation of voter verification letters, and relative to the terms "resident," "inhabitant," "residence," and "residency." **WITHOUT RECOMMENDATION**

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Rep. Ross Berry

Original: House Clerk
Cc: Committee Bill File

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill #: HB40 Date: 2.7.23

Committee: ELECTION LAW

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

Name	Address	Phone	Representing	Pro	Con
Rep DANIEL POLICI-MULLER		603 267 4142	LOCK. 17	✓	X
OLIVIA ZINK	4 PARK ST CONCORD	603-715-8197	Open Democracy Action		
Julia Thompson	20 watson Rd Durham	(603)781-3659		✓	
Sebastian Fuentes	Thornton NH	6039914687	Rights & Democracy	✓	
Kathy Holmes	295 Horse Corner Rd	715-7073	Self		X

HOUSE COMMITTEE ON ELECTION LAW

PUBLIC HEARING ON HB 40

BILL TITLE: **relative to domicile residency, voter registration, and investigation of voter verification letters, and relative to the terms "resident," "inhabitant," "residence," and "residency."**

DATE: **February 9, 2023**

LOB ROOM: **306-308** **Time Public Hearing Called to Order:** **10:03 a.n**

Time Adjourned: **10:34 a.m.**

Committee Members: Reps. Berry, Grill, Prudhomme-O'Brien, Boehm, Qualey, Burnham, Kennedy, Wherry, Wood, Lane, Ward, Hamer, Hamblet, Muirhead, Bay, Brennan and H. Howard, Palmer

Bill Sponsors:
Rep. Horrigan **Rep. Preece** **Rep. Selig**

TESTIMONY

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

Acting Chair Berry opened the public hearing.

Rep. Timothy Horrigan,* sponsor, introduced the bill and spoke in support. He said that the current definition of residency is simple, and that this bill would make a minor change to the definition of residency. He stated that this bill was virtually identical to previous legislation that was submitted in 2021 and recommended ITL, and that he has re-submitted the bill to give the bill a floor vote. He said that this bill covers sections 16-18 and creates a simpler definition of residency. He said that the current definition of residency adversely affects college students, as well as other groups. He stated that this bill would ensure that all voters have the right to vote in the community where they live, regardless of why they live there. He quoted the NH Constitution to support his bill and stated that regardless of why college students moved to a community, they have the right to participate in elections, in addition to military personnel, temporary workers and others living in NH. He stated that this bill is trying to restore NH voting laws to their state prior to laws that were implemented in 2012. He also said that there was similar legislation in progress with the Senate.

Rep. Hamblet asked with regards to Section 8 on Page 20 of the bill and asked whether this bill would allow NH to enroll in the centralized voter registration database. Rep. Horrigan said that the Secretary of State would likely be able to provide clarification, but that this program has been problematic and that if a better program exists, we can join it.

Rep. Wherry asked for clarification on a temporary absence that a voter might return to their residence from. Rep. Horrigan clarified that for voters with multiple residences, they may only choose one as their domicile (for example, college students, some of whom vote in their home states and some vote in their college communities). He said that this confirmed that those voters could choose where to vote based on where they felt most connected or planned to remain. As a follow-up, Rep. Wherry asked whether certain language in the bill was redundant. Rep. Horrigan said that this was previous language in the RSA and stated that he wanted to decouple voting residency from the definition of residency used for other purposes.

Rep. Lane asked with regards to the “temporary absence” language, would this also apply to workers out of state or those traveling for medical purposes? Rep. Horrigan confirmed this was true. Rep. Horrigan also confirmed that this would apply to “snowbirds.”

Rep. Berry asked for clarification with regards to Rep. Horrigan’s comment about students choosing

where to vote based on their political activity. Rep. Horrigan clarified that some students may be more connected to their college communities rather than their original states, and compared it to medical residents or workers, and stated that they may be more engaged with what was going on locally.

Rep. Bay asked whether the bill goes both ways, so for example, a student from New Hampshire attending college in Hawaii could vote in NH. Rep. Horrigan confirmed that this was true.

Secretary of State David Scanlan spoke in opposition to the bill. He stated that this bill has a lot of content, and that while he agrees with removing content related to SB3, which was declared unconstitutional, the bill is also confusing in many respects. He referred to a statute addressing general voter registration and voter registration forms, as well as same-day registrations, and wondered what happens for primaries or town elections, given that the bill only refers to state general elections. He stated that he wants voters to be able to register on the same day for all elections, not just the state general election. He said that it is difficult to find equilibrium with regards to the definition of "residency" for voting purposes, and that with court opinions, we have hit a sweet spot with regards to the definitions of domicile and residence so that they mean the same thing for election law. He stated that for residents who are temporarily absent, law states that you do not lose your current domicile until you re-establish domicile elsewhere, and said that students already have the choice to retain their current residency or establish residency in the community where they are attending school. He referenced military and construction workers as further examples.

Rep. Lane referenced the bill and asked whether statutory authority is needed to join or leave the voter registration database. SOS Scanlan stated that he believes we already have that authority, and that he does not believe a new cross-check program currently exists but that he would be interested in seeing NH participate in a similar program with surrounding New England states. He stated that NH town clerks currently share information when they become aware of a voter moving from nearby states.

Rep. Berry asked whether there are court cases that establish college students as a special class of voters and asked what makes students different from other classes of voters who spend the majority of their time in one state. SOS Scanlan said that there are court cases that give students the choice to claim their domicile and stated that students can either be considered absent from their original domicile, or if they are engaged in their new community, they can claim that community as their domicile. He clarified that this means that one would declare themselves to be a resident of their new domicile and would be subject to the laws of NH.

Rep. Brennan asked whether there would be a penalty for voters to vote outside their domicile. SOS Scanlan said that this information may be on the voter registration form, and stated that it is a crime to vote in two separate places in a single location, but that voters' circumstances may change after that election, causing them to vote elsewhere. Rep. Brennan asked that if there was an amendment to clarify the language on same-day registration and election dates, would SOS Scanlan support the bill? He said that he would support cleaning up the SB3 language, but is concerned about the general election language and that changing the definition of domicile or residency may cause turmoil. He said that he would support entering NH into a cross-check system but that legislation is not required for this.

Rep. Howard asked if SOS Scanlan would recommend nursing home residents vote in their nursing homes or original communities. SOS Scanlan said that nursing home residents are another category of voters who would have a choice, and that they could either claim domicile in their original home location or the location of their nursing home.

Acting Chair Berry read the results of the blue sign-in sheet: 4 in favor and 1 opposed.

Acting Chair Berry closed the public hearing.

**See written testimony.*

Respectfully submitted,

Rep. Jessica Grill, Clerk

House Remote Testify

Election Law Committee Testify List for Bill HB40 on 2023-02-07

Support: 107 Oppose: 16 Neutral: 0 Total to Testify: 0

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Name	City, State Email Address	Title	Representing	Position	Testifying	Non-Germane
Eaton, Alexis	Durham, NH ameaton481@gmail.com	A Member of the Public	Myself	Support	No	No
McConnell, James	Swanzey, NH mcc988@icloud.com	A Member of the Public	Myself	Oppose	No	No
Smith, Hayden	Hanover, NH hasmith1520@gmail.com	A Member of the Public	Myself	Support	No	No
thompson, julia	durham, NH maple371@gmail.com	A Member of the Public	Myself	Support	No	No
Richman, Susan	Durham, NH susan7richman@gmail.com	A Member of the Public	Myself	Oppose	No	No
Damon, Claudia	Concord, NH cordsdamon@gmail.com	A Member of the Public	Myself	Support	No	No
Kudlik, Cindy	Grafton, NH CindyKudlik@protonmail.com	An Elected Official	Myself	Oppose	No	No
Coon, Kate	Peterborough, NH kate2coon@gmail.com	A Member of the Public	Myself	Support	No	Yes
Strakalaitis, Judy	Derry, NH FREE-DERRY@COMCAST.NET	An Elected Official	Myself	Support	No	No
Istel, Claudia	Acworth, NH cistel79@gmail.com	A Member of the Public	Myself	Support	No	No
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Ellermann, Maureen	Concord, NH ellermannf@aol.com	A Member of the Public	Myself	Support	No	No
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Chadwick, Ray	Bedford, NH rfchadwick@juno.com	A Member of the Public	Myself	Oppose	No	No
Meserve, Barbara	Jackson, NH AllSnowDays@yahoo.com	A Member of the Public	Myself	Support	No	No
Alexander, Christine	Cornish, NH calex8@gmail.com	A Member of the Public	Myself	Support	No	No
Beauchesne, Michael	Hudson, NH michael.beauchesne@myfairpoint.net	A Member of the Public	Myself	Oppose	No	No
Liberman, Sheryl	Merrimack, NH saml54@comcast.net	A Member of the Public	Myself	Support	No	No
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Caton, Mark	Merrimack, NH markcaton55@outlook.com	A Member of the Public	Myself	Oppose	No	No
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DeMark, Harriet	Meredith, NH demarknh114@gmail.com	A Member of the Public	Myself	Support	No	No
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Keeler, Margaret	New London, NH peg5keeler@gmail.com	A Member of the Public	Myself	Support	No	No
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Thomas, A	Rindge, NH annekerosie@gmail.com	A Member of the Public	Myself	Support	No	No
Merlone, Lynn	Rindge, NH prulone@gmail.com	A Member of the Public	Myself	Support	No	No
Martin, Patricia	Rindge, NH pmartin2894@yahoo.com	A Member of the Public	Myself	Support	No	No
Hershey, Jane	Rindge, NH janelhershey@gmail.com	A Member of the Public	Myself	Oppose	No	No
Fudge, Kim Marie	NORTH CONWAY, NH kimfudge20@gmail.com	A Member of the Public	Myself	Support	No	No
Rasmussen, Elissa	Brookline, NH elissa@evanshatz.com	A Member of the Public	Myself	Support	No	No
Rasmussen, Kyle	Brookline, NH elissa@evanshatz.com	A Member of the Public	Myself	Support	No	No
Horrigan, Timothy	Durham, NH timothyhorrigan@icloud.com	An Elected Official	Strafford 10 (prime sponsor of bill)	Support	No	No
MacGregor, Leslie	Grantham, NH lsmacgregor@gmail.com	A Member of the Public	myself	Support	No	No
Davidson, Geri	Nashua, NH geridavidson15@gmail.com	A Member of the Public	Myself	Support	No	No
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Hamer, Geoffrey	Manchester, NH geoffh87@aol.com	A Member of the Public	Myself	Support	No	No
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Smith, Sara	Pembroke, NH sara.rose.ssmith@gmail.com	A Member of the Public	Myself	Support	No	No
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Woodward, Sharon	Hollis, NH sharcw@charter.net	A Member of the Public	Myself	Oppose	No	Yes
Bowles, Margaret	Lyme, NH mcb2885@gmail.com	A Member of the Public	Myself	Support	No	No
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Crompton, Misty	New Boston, NH m.crompton.snhu@gmail.com	A Member of the Public	Myself	Support	No	No
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Montibello, Joe	Hanover, NH josephmontibello@gmail.com	A Member of the Public	Myself	Support	No	No
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Walker, Deborah Klein	Meredith, NH deb.publichealth@gmail.com	A Member of the Public	Myself	Oppose	No	No
Ahern, Henry	Plymouth, NH henry@bonniebraefarms.com	A Member of the Public	Myself	Oppose	No	No
Downing, Cynthia	PLYMOUTH, NH cindy@hdatech.com	A Member of the Public	Myself	Support	No	No
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Petrusewicz, Carol	Rochester, NH clmcc2befree@yahoo.com	A Member of the Public	Myself	Oppose	No	No
Staples, Monica	Nashua, NH monica.staples@gmail.com	A Member of the Public	Myself	Support	No	No
Steel, Sandy	PLAINFIELD, NH selizabethsteel@gmail.com	A Member of the Public	Myself	Support	No	No
morgan, meredith	hanover, NH meredithm@kahres.org	A Member of the Public	Myself	Support	No	No
Chappelle, Maura	Jefferson, NH MauraChappelle@gmail.com	A Member of the Public	Myself	Oppose	No	No
Spencer, Louise	Concord, NH lpskentstreet@gmail.com	A Member of the Public	Myself	Support	No	No
Perry, Bob	Strafford, NH perry4nh@gmail.com	A Member of the Public	Myself	Support	No	No
Morton, Jennifer	Amherst, NH Jennifer.Morton@leg.state.nh.us	An Elected Official	Myself	Support	No	No
Schuett, Dianne	Pembroke, NH dianne.schuett@leg.state.nh.us	An Elected Official	Myself and my constituents	Support	No	No
Boudman, Roberta	Wolfeboro, NH boudwoman2@gmail.com	A Member of the Public	Myself	Support	No	No

HCS

Memorandum

New Hampshire House of Representatives
House Committee Services

Christina.Dyer@leg.state.nh.us
603-271-3385

TO: **Rep. Steven Smith**
Chair, State, Federal and Veterans' Affairs Committee

FROM: **Christina Dyer,**
Committee Researcher

DATE: **February 4, 2023**

SUBJ: **HB 40: relative to domicile residency, voter registration, and investigation of voter verification letters, and relative to the terms "resident," "inhabitant," "residence," and "residency."**

You asked: What is the history of this legislation?

SUMMARY

This bill modifies the definition of domicile for voting purposes, modifies forms and procedures used for voter registration, and removes the requirement that the secretary of state conduct post-election voter registration inquiries. This bill also amends the general statutory definitions of "resident or inhabitant" and "residence or residency" to include an intent to maintain a principal place of physical presence for the indefinite future.

The phrase "for the indefinite future" was added to the definition of 'Resident, Inhabitant' in 1981 and in that same year, the definition of 'Residence' was first adopted and the definition included the indefinite intent phrase. After considerable debate, the phrase was removed from both definitions by HB 1264 (2018). This change took effect until July 1, 2019.

The phrase "temporary absence" has undergone debate in the past several years, most specifically in light of SB 3 (2017, which established a presumption that a person who has been present in the state for 30 or fewer days is present on a temporary basis unless the person can show an intent to establish domicile in NH. Last year, HB 554 (2022) was introduced to amend and further clarify "temporary absence" but died on the table in the House.

Attached to this memo is a 50 state Survey of voter residency requirements relating to "Temporary Absence".

NH Law

21:6 Resident; Inhabitant. –
A resident or inhabitant or both of this state and of any city, town, or other political subdivision of this state shall be a person who is domiciled or has a place of abode or both in this state and in any city, town, or other political subdivision of this state, and who has, through all of his or her actions, demonstrated a current intent to designate that place of abode as his or her principal place of physical presence to the exclusion of all others.

21:6-a Residence. –
Residence or residency shall mean a person's place of abode or domicile. The place of abode or domicile is that designated by a person as his or her principal place of physical presence to the exclusion of all others. Such residence or residency shall not be interrupted or lost by a temporary absence from it, if there is an intent to return to such residence or residency as the principal place of physical presence.

654:1 Voter; Office Holder. –
I. Every inhabitant of the state, having a single established domicile for voting purposes, being a citizen of the United States, of the age provided for in Article 11 of Part First of the Constitution of New Hampshire, shall have a right at any meeting or election, to vote in the town, ward, or unincorporated place in which he or she is domiciled. An inhabitant's domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government. A person has the right to change domicile at any time, however a mere intention to change domicile in the future does not, of itself, terminate an established domicile before the person actually moves.

654:2 Temporary Absence or Presence. –[1]

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

II.
   a. A person present in New Hampshire for temporary purposes shall not gain a domicile for voting purposes. A person who maintains a voting domicile where he or she came from, to which he or she intends to return to as his or her voting domicile after a temporary presence in New Hampshire, does not gain a domicile

[1] See Attached for complete copy RSA 654:2

in New Hampshire regardless of the duration of his or her presence in New Hampshire.

b. A person who has been present and residing in one town or ward in New Hampshire for 30 or fewer days is presumed to be present for temporary purposes unless that person has the intention of making the place in which the person resides his or her one place, more than any other, from which he or she engages in the domestic, social, and civil activities of participating in democratic self-government including voting, and has acted to carry out that intent.
c. For the purposes of this chapter, temporary purposes shall include, but are not limited to, being present in New Hampshire for 30 or fewer days for the purposes of tourism, visiting family or friends, performing short-term work, or volunteering or working to influence voters in an upcoming election.
d. For the purposes of voter registration under RSA 654:7, IV(c), an applicant shall demonstrate an intent to make a place his or her domicile by providing documentation showing that the applicant has a domicile at the address provided on the voter registration form.

Relevant Court Cases

***Newburger v. Peterson* - (1972)**
United States District Court, District of New Hampshire; June 8, 1972.

The opinion written by Circuit Judge Coffin begins with this summary:

"This case presents a challenge to the constitutionality of New Hampshire's law disqualifying a citizen from voting in a town if he has a firm intention of leaving that town at a fixed time in the future. The few facts are stipulated. Plaintiff, whose parents live in Hawaii, is a student at Dartmouth College who, solely because he stated to voter registration officials that he intended to leave Hanover upon his graduation in June of 1974, was denied registration. The present defendants are the registration officials of Hanover and the state's Attorney General. The pertinent New Hampshire statute, N.H.R.S.A. c. 54, § 1, does not on its face command the denial, specifying only that an inhabitant of a town shall have the right "to vote in the town in which he dwells and has his home." But it is also stipulated that New Hampshire's venerable common law of domicile, as embodied in State v. Daniels, 44 N.H. 383 (1862), is incorporated in the statute. This tradition views an intention to remain permanently or indefinitely in a particular town as essential to the acquisition of domicile".
(*Newburger v. Peterson,* 344 F.Supp. 559 (1972)

Although the *Newburger* decision did not address the definitions of 'Resident, Inhabitant' and 'Residence' in RSA 21, this case did specifically address the issue of requiring an indefinite intention to remain in a place in order to establish domicile for voting purposes.

The District Court judge based his ruling on the common law definition of domicile and found that the indefinite intention test violates the equal protection clause of the 14th Amendment of the US Constitution. In his often-quoted final sentence in this ruling Circuit Judge Coffin stated "that the New Hampshire indefinite intention requirement is too crude a blunderbuss to pass muster". (*Newburger v. Peterson,* 344 F.Supp. 559 (1972)

Opinion of the Justices, 2018;

On May 16, 2018, the Governor and Executive Council adopted a resolution requesting an opinion of the justices on the following questions:

I. By subjecting those who are domiciled in New Hampshire for voting purposes to the same legal requirements as those who are residents of New Hampshire, including but not limited to the requirements to take actions required by RSAs 261:45 and 263:35 and to pay any fees or taxes associated therewith, would House Bill 1264, on its face, violate any of the following provisions of the New Hampshire or United States Constitutions?

(a) The Equal Protection Clause of Part I, Article 2 of the New Hampshire Constitution.
(b) Part I, Article 11 of the New Hampshire Constitution.
(c) The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

II. By subjecting those who are domiciled in New Hampshire for voting purposes to the same legal requirements as those who are residents of New Hampshire, including but not limited to the requirements to take actions required by RSAs 261:45 and 263:35 and to pay any fees or taxes associated therewith, would House Bill 1264, as applied to students attending a postsecondary institution within the State of New Hampshire who currently claim New Hampshire as their domicile for voting purposes but who do not claim New Hampshire as their residence, violate any of the following provisions of the New Hampshire or United States Constitutions?

(a) The Equal Protection Clause of Part I, Article 2 of the New Hampshire Constitution.
(b) Part I, Article 11 of the New Hampshire Constitution.
(c) The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

Conclusion of the Justices

On July 12, 2018, a 3-2 majority of the Court issued an opinion stating that the provisions of HB 1264 would not violate either that State Constitution or the US Constitution. The minority stated that they were unable to answer the questions posed due to a lack of factual record.

The Governor signed HB 1264 into law on July 13 and it became Chapter 370, Laws of 2018.

Prior Legislation

2014, HB 1459 (Ch. 104), relative to domicile for voting purposes during a temporary absence.

Referred to the Election Law Committee, Vote 15-0
Majority: Ought to Pass

Rep. Ruth E Gage for Election Law. Under current law a voter does not lose his or her domicile for voting purposes due to employment outside of New Hampshire while in the service of the United States. HB 1459 adds language to allow the spouses of military personnel and others employed by the United States to also retain domicile in the state.

Final Disposition: Signed by the governor

2016, HB 1356, relative to construction of the terms "resident," "inhabitant," "residence," and "residency."

Referred to the Election Law Committee, Vote 11-7
Majority: Ought to Pass
Minority: Inexpedient to Legislate

Rep. Barbara Griffin for the Majority: This bill with the amendment makes technical corrections to the statutory definitions of resident and residence. The current law in RSA 21:6 says that a resident must demonstrate "... a current intent to designate that place of abode as his principal place of physical presence for the indefinite future to the exclusion of all others." In 1972, the New Hampshire Supreme Court ruled in the Newburger v. Peterson case that "the indefinite intention test offends the equal protection clause of the Fourteenth Amendment." As a result of that decision, the current definition of resident in RSA 21:6 is unconstitutional with respect to voting. To eliminate the conflict between that court decision and current law, this bill simply removes the four words "for the indefinite future" from the definition of resident. The amendment removes the same four words from the definition of residence. This legislation does not implement any policy change and has been vetted for unintended consequences by the Department of Safety, the Division of Vital Records, the New Hampshire Fish and Game Department, the University System of New Hampshire, and the Secretary of State. None of these departments found any concerns with the proposed changes and the Department of Safety and the Secretary of State explicitly support the clarification of these definitions.

Rep. Wayne Burton for the Minority: This bill is yet another attempt to change the laws that have served NH well for many years as to who may vote in our state. Federal court decisions have protected the rights of students, veterans and others in our mobile society. In this, the 100th anniversary of our presidential primary, measures tending to limit access to the polls run counter to our desire to preserve our rightful place as first in the nation.

Final Disposition: Laid on the Table in the Senate

2018, HB 372, relative to construction of the terms "resident," "inhabitant," "residence," and "residency."

Referred to the Election Law Committee, Vote 11-9
Majority: Ought to Pass
Minority: Inexpedient to Legislate

Rep. Steve Negron for the Majority: This bill proposes to amend the statutory definitions of "resident or inhabitant" and "residence or residency" to make the statutes constitutional with respect to the use of the words in laws related to voting. Specifically, it removes the phrase "for the indefinite future" because a voter cannot be required to have an intention to remain a resident of the state indefinitely. The current law in RSA 21:6 says that a resident must demonstrate "... a current intent to designate that place of abode as his principal place of physical presence for the indefinite future to the exclusion of all others." In 1972, the US District Court in New Hampshire ruled in the Newburger v. Peterson case that "the indefinite intention test offends the equal protection clause of the Fourteenth Amendment." As a result of that decision, the current definition of resident in RSA 21:6 is unconstitutional with respect to voting. The majority of the committee believe this change eliminates the conflict between that court decision and current law, this bill removes the four words "for the indefinite future" from the

definitions of resident and residence. This legislation does not implement any policy change and has been vetted for unintended consequences by the Department of Safety, the Division of Vital Records, the New Hampshire Fish and Game Department, the University System of New Hampshire, and the Secretary of State. None of these departments found any concerns with the proposed changes and the Department of Safety and the Secretary of State supported the clarification of these definitions.

Rep. David Huot for the Minority of Election Law. This bill attempts, just as HB 1356 did last year, to tie the definitions in RSA 21:6 and 21:6-a to voting. In its zeal to target students, it inadvertently imposes a post-election poll tax not only on students, but also on all inhabitants whose presence in the state is of uncertain duration. It doesn't prevent them from voting, but, rather, requires the payment of motor vehicle fees and personal property taxes by students, professors, and even persons assigned to the state for work of a long but finite term.

Final Disposition: Died during Committees of Conference

2018, HB 1264, (Ch. 370), relative to construction of the terms "resident," "inhabitant," "residence," and "residency."

Referred to the Election Law Committee, Vote 11-9
Majority: Ought to Pass
Minority: Inexpedient to Legislate

Rep. Barbara Griffin for the Majority: This bill modifies the general statutory definitions of "resident or inhabitant" and "residence or residency." It does so by eliminating the reference to "for the indefinite future" in the existing definition. Under current law our Supreme Court has found that the reference to the indefinite future separates residents from those merely domiciled here, definitions critical to voting eligibility. As it currently exists, the law effectively creates two classes of voters. Testimony before the committee by those in favor and opposed to the bill rightly made reference to the State Constitution that refers to inhabitants having equal rights to vote. The majority of the committee believes it is important to ensure that "equal" right to vote by aligning the definitions of domicile, resident, and inhabitant. Testimony made it clear there are two classes of voters because testimony opposed to the bill contained repeated reference to the fact that a certain class of persons would lose ability to vote. Some objections to the change made reference to the fact that certain voters, who currently do not need to comply with motor vehicle laws, would have to with this bill. It was said that a requirement to comply with motor vehicle licensing and registration of vehicles would create a post-election poll tax. A poll tax is something that must be required before the vote; this change creates no such pre-vote obligation. Additionally, this distinction serves to clarify that we currently have two classes of voters; some need to register their cars, some don't. This legislation does not change current practice of driver's licensing and motor vehicle registration. What this legislation does do is clear decades of confusion and conflation of common terms used in our statutes: resident, domicile, and inhabitant. Under this legislation, someone who is domiciled in our state will be considered a resident and must follow the laws of our state. The majority of the committee believes that those living and voting in New Hampshire should follow our laws and statutes. Vote 11-9.

Rep. David Huot for the Minority: The minority believes the deletion of "for the indefinite future" from RSA 21:6 and RSA 21:6-a will accomplish nothing with respect

to election law except for potentially creating a situation in which another lawsuit could be filed. It does not change the law as decided in the Newburger v. Peterson case in 1972. Changing language in these statutes could only result in unforeseen consequences such as altering eligibility for such things as in-state tuition rates, hunting and fishing licenses and other legal benefits of New Hampshire residence.

Final Disposition: Signed by the governor

2019, HB 105-FN, relative to domicile residency, voter registration, and investigation of voter verification letters.

Referred to the Election Law Committee, Voter, 12-8
Majority: Ought to Pass
Minority: Inexpedient to Legislate

Rep. Edith DesMarais for the Majority: 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.

Rep. Timothy Lang for the Minority: 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.

Final Disposition: Vetoed by the Governor

Veto message from Christopher T. Sununu on 7/29/2019:
"This bill would repeal Senate Bill 3, a bill I signed in 2017 which made commonsense changes to our voter registration process to help ensure the integrity of our elections. Senate Bill 3 was used in municipal, state and federal elections for a year and a half, and our election process continued to run smoothly. Opponents of Senate Bill 3 made claims that this bill would discourage various groups of voters from participating in our elections. In fact, in the 2018 general election, the State saw record turnout in many towns with high populations of those voters. The lesson is clear: Ensuring integrity in our elections increases voter confidence and increases voter turnout. We should not roll back Senate Bill 3's improvements to our election process."

2019, HB 106, relative to the terms "resident," "inhabitant," "residence," and "residency."

Referred to the Election Law Committee, Voter, 12-8
Majority: Ought to Pass
Minority: Inexpedient to Legislate

Rep. Wayne Moynihan for the Majority: This bill amends the general statutory definitions of "resident or inhabitant" and "residence or residency" to include an intent to maintain a principal place of physical presence for the indefinite future. The bill restores language removed from the law in 2018 and eliminates the related exposure to criminal charges that those changes associated with registering to vote and voting. This bill removes the constitutionally suspect changes made to these definitions, which compel certain constitutionally-eligible voters, who make their home in NH at the time of an election, but who may have plans to leave NH in the future, to have to pay car registration fees and driver's license fees to the state within 60 days of registering to vote. This places a cost upon the exercise of the constitutional right to vote. Among others, the inhabitants subject to these definitions are those with multi-year but not permanent contracts, such as medical residents, professors, and college students who have right to vote here because they are living here. The majority believes the revised definitions created what amounts to a poll tax, and this bill eliminates that. Most states have policies that do not link the right to vote to motor vehicle fees. This bill changes the modifications that were made to this state last session and restores this element of NH's long-standing voter registration policy.

Rep. Peter Hayward for the Minority: Inserting the unnecessary phrase "for the indefinite future" renders an otherwise clear statement meaningless. Indefinite future can mean seconds, weeks, or months. An intent to become a resident could be a whim with no measure to determine qualification. For this reason, the minority recommends Inexpedient to Legislate

Final Disposition: Vetoed by the governor

Veto message from Christopher T. Sununu on 7/29/2019:
This bill would repeal House Bill 1264, a bill I signed in 2018 which put every voter in New Hampshire on equal footing by making all those who vote in New Hampshire subject to the same legal requirements. New Hampshire now aligns with virtually every other state in requiring residency in order to vote. House Bill 1264 restored equality and fairness to our elections, and the Supreme Court ruled the bill is constitutional while affirming that New Hampshire had a compelling state interest in seeing the bill enacted. House Bill 106 would take us back to the days of unequal treatment of voters. Allowing that to happen would be a dereliction of my duty to uphold the provision of our State Constitution that mandates equal protection under the law.

2020, HB 1653-FN, relative to domicile, residency, voter registration, and investigation of voter verification letters

Referred to the Election Law Committee, Voter, 12-8
Majority: Ought to Pass
Minority: Inexpedient to Legislate

Rep. William Pearson for the Majority: This bill modifies or removes much of the language contained in the 2017 legislation: SB 3. That legislation modified the definition of domicile for voting purposes and the requirements for documenting the domicile of a person registering to vote. This bill also removes New Hampshire from the now-defunct Interstate Voter Crosscheck Program and provides criteria for the Secretary of State to use when soliciting an alternative. The majority believes SB 3 is likely unconstitutional and poor public policy; the majority also believes it is necessary to provide guidance to the Secretary of State when binding New Hampshire to interstate programs that share citizens' information. Vote 12-8.

Rep. Barbara Griffin for the Minority: This bill is an effort to repeal current law that was passed in the previous session known as SB 3. It is an identical effort to a bill of the first year of this session which was vetoed by the Governor. This bill proposes to eliminate the requirement that when a person registers to vote that there be proof of domicile, such proof being referred to as "verifiable actions of domicile." This requirement is consistent with other states and was a commonsense reform to ensure confidence in the integrity of our elections. The law was used in 18 months of election and there is no evidence that voters did not vote as a result of the law; in fact some of the highest turnout ever occurred. The current law is now the subject of ongoing litigation with a trial recently completed but Orders having not yet issued. The minority of the committee believes we should let the court case continue to its end and after consideration of the ruling make changes as might be needed then.

Final Disposition: Laid on the Table in the Senate

2020, HB 1279, relative to the terms resident, inhabitant, residence, and residency.

Referred to the Election Law Committee, Vote 12-8
Majority: Inexpedient to Legislate

Rep. William Pearson for the Majority. This bill adds the words "for the indefinite future" to the definitions of "resident; inhabitant" and "residence." The majority believes this addition better clarifies voter eligibility requirements as they are found in the Constitution and Supreme Court precedent.

Rep. Barbara Griffin for the Minority: This bill is the second attempt this session to repeal a law currently in effect. The law which the majority would repeal was passed and signed into law and has been in effect with no known impact on voter participation. This law makes residence and domicile equivalent thus ending unequal treatment of voters. This makes us consistent with almost all other states in that a person needs to be a resident to vote in our state. The current law has been found constitutional by the NH Supreme Court which ruled the state has an interest in making sure that when residency is claimed by a person it should not be just for voting but for all purposes. This law is currently before the Federal Court with a decision expected later this year. The minority believes that to keep the current law in place pending that result is the best result for the integrity of our elections.

Final Disposition: Laid on the Table in the Senate

2021, HB 538, relative to domicile residency, voter registration, and investigation of voter verification letters, and relative to the terms "resident," "inhabitant," "residence," and "residency."

Referred to the Election Law Committee, Vote 11-9
Majority: Inexpedient to Legislate

Rep. Barbara Griffin for Election Law. This bill proposes to make modifications in definitions relating to domicile, residence, and inhabitant. It also modifies forms and procedures for voter registration and removes the requirement for post-election registration inquiries and review by the Secretary of State. In general it returns statutory language to its form prior to 2018. The majority of the committee support the reasonable provisions that are in statute now. Those provisions require voters to be domiciled on a permanent basis at the time of voting, require production of a verifiable proof of domicile when registering, and require production of proof of domicile subsequent to voting if not available at the time of same day registration. The majority of the committee also recognized that the statutes which this bill proposes to modify are currently in litigation and believe that more prudent course is to wait for conclusion of that judicial process before modifying the proposed sections of law

Final Disposition: Died in the House

2022, HB 554, relative to temporary absence from domicile for voting purposes.

Referred to the Election Law Committee, Vote 17-3
Majority: Refer to Interim Study
Minority: Inexpedient to Legislate

Rep. Barbara Griffin for the Majority: This bill proposes to amend RSA 654:2 which defines a voter's temporary absence and what impact that absence has on domicile for voting. During the past year, with many relocations due to the pandemic, questions arose as to when being temporarily out of state or in state became a permanent change effecting domicile. Testimony provided to the committee ranged from, "the matter is covered currently" to, "this change was needed to address the issue of a voter being absent and having no physical ties to the state." While an important issue that should be addressed, the committee and sponsor agreed the bill as drafted needed work and was not ready for passage.

Rep. Russell Muirhead for the Minority. The minority is concerned that this bill, in its effort to clarify what counts as a temporary absence from New Hampshire for voting purposes, would unintentionally render New Hampshire residents, who spend substantial time at vacation homes that they own or rent in other states, ineligible to vote in New Hampshire. More generally, the minority is uncertain about the practical problems the bill is meant to address. Because these issues with the underlying bill are unlikely to be remediated, the minority voted against referring for interim study.

Final Disposition: Died on the Table in the House

TITLE LXIII
ELECTIONS

CHAPTER 654
VOTERS AND CHECKLISTS

Eligibility

Section 654:2

654:2 Temporary Absence or Presence. –

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) An applicant whose domicile is at an abode rented, leased, or owned by another and whose name is not listed on the rental agreement, lease, or deed may provide a written statement from a person who is listed on the rental agreement, lease, or deed, or other reasonable proof of ownership or control of the property or his or her agent who manages the property that the applicant resides at that address, signed by the owner or manager of the property under penalty of voting fraud if false information is provided.

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

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

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

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

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

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

VI. Any case where supervisors are unable to verify the applicant's domicile or where evidence exists of voting fraud shall be promptly reported to the secretary of state and to the attorney general, who shall cause such further investigation as is warranted. After receiving confirmation from the secretary of state that an individual is not domiciled at the address provided, the supervisors shall also initiate removal of the person from the checklist by sending the person the notice required by RSA 654:44.

Source. 1979, 436:1. 2003, 289:24. 2014, 104:1, eff. Aug. 10, 2014. 2017, 205:1, eff. Sept. 8, 2017.

Testimony in Favor of HB 40:
AN ACT relative to domicile residency, voter registration, and investigation of voter verification letters, and relative to the terms "resident," "inhabitant," "residence," and "residency."

Rep. Timothy Horrigan (Strafford 10)
House Election Law Committee; February 7, 2023

HB 40 (2023) is essentially identical to HB 538 (2021), which came before the Election Law Committee two years ago. HB 538 was deemed "Inexpedient to Legislate" by a narrow 10-9 margin, on March 30, 2021. But then, even though the House's rules state that every bill gets a vote on the floor, HB 538 was one of several dozen bills (all of them ITLed in committee) which never got a floor vote. That happened during the COVID-19 emergency, when the full House met at the NH Sportsplex in Merrimack. I could have brought HB 538 back in 2022, but I decided not to bother.

But now it is 2023, and here I am introducing HB 538's new incarnation, HB 40.

HB 40 is a combination of 2 bills which I sponsored (with many co-sponsors) in 2019, which both passed the House and Senate before being vetoed by Governor Sununu. HB 106 (2019) also covered the same ground as SB 67 (2019), which was also vetoed in 2019.

The former HB 106 is at the end of the very long bill before the committee today: it is covered by section 16 (out of 18). The former HB 105 comprises the first 15 sections. (Section 17 deals with funding, and Section 18 establishes the effective date.)

HB 538, if passed into law, would undo three earlier bills which unfairly restrict voting rights and generally make the voting process less user-friendly (or, to put it another way, more user-hostile.) Those three very bad bills were HB 1264 (2018), SB 3 (2017) and SB 318 (2012.) SB 3 is the most infamous of those three bills

Students are not the only voters who are adversely effected by the changes to voting rights law which HB 538 aims to undo. But my constituents in Durham, which is a college town, justifiably perceive those changes as an attack on students' right to vote. Every citizen over the age of 18 has the right to vote in the community where he or she lives, regardless of why he or she moved there and regardless of how long ago.

Article 11 Part 1 of our state constitution states (in part):

All 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. Every person shall be considered an inhabitant for the purposes of voting in the town, ward, or unincorporated place where he has his domicile.

That means, if you live here, you can vote here. Period.

Rep. Timothy Horrigan; 7A Faculty Rd; Durham, NH 03824; email: Timothy.Horrigan@leg.state.nh.us

Election Law Committee **HB 40** **February 7, 2022**

Election Law Committee Members

My name is Ray Chadwick, Chairman of *Granite State Taxpayers (GST)*. *GST* supports revising New Hampshire voter law to make our voting system simple to understand and execute, resistant to fraud, and available exclusively to bona fide residents of New Hampshire.

Granite State Taxpayers Opposes HB 40

This bill modifies the definition of domicile for voting purposes and restores voting opportunities for non-residents that were removed from statute in 2018 by passage of HB 1264.

HB 40 has the intent to authorize voting in NH by out of state residents.
HB 40 is a reprise of previous efforts (HB 538, HB 106, HB 1279, HB 1653, HB 1203) to repeal HB 1264 and award voting rights in New Hampshire to residents of other states.

New Hampshire was unique in the country in allowing people to vote who are residents of other states. HB 1264 defined residency to close a loophole allowing residents of other states to vote here. GST supported HB1264, so we obviously oppose HB 40, as we did its predecessors.

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. Of that total, 491 used an out of state driver's license to change registration from one town to another town within New Hampshire While an out of state driver's license provides proof of identity, it also proves residency in another state.

HB1264 complied with the United States Supreme Court decision in DUNN v.BLUMSTEIN, March 21, 1972, which 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."*

On July 12, 2018, a NH Supreme Court Opinion on whether New Hampshire should continue to allow residents of other states to vote in New Hampshire, stated *"not only does New Hampshire have no such constitutional obligation but, quite the contrary, it has a compelling state interest not to do so."* Subsequently, a US District Court agreed.

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 residency.

With all of that background and court decisions, it's difficult to understand how some members of the New Hampshire General Court remain so committed to giving residents of other states a right to vote here. They apparently believe they gain electoral advantage from such voters.

For these reasons, Granite State Taxpayers opposes House Bill 40.

Granite State Taxpayers recommends a vote of "ITL" for HB 40.

Ray Chadwick, Chairman
Granite State Taxpayers

HB40 AN ACT relative to domicile residency, voter registration, and investigation of voter verification letters, and relative to the terms "resident," "inhabitant," "residence," and "residency."

Honorable Members of the House of Representatives Committee on Election Law,

For the record, I am Daniel C. Itse. I represented the town of Fremont from 2001 to 2018. I served as Chairman of Constitutional Review and Statutory Recodification in 2011/2012, and I rise in opposition to HB40.

The civil right of voting is or should be one of the most highly prized privileges of living within our society. It was the intention of the founders that only those who are citizens of our State, and have a vested interest in its future, and the future of the community in which they live, have the power to vote. Voting is not intended for those who have only a transient interest in New Hampshire, and its towns. Therefore, anyone who claims the right to vote in our elections must have all the duties and obligations of a citizen of State of New Hampshire. Executing those duties and obligations is the positive demonstration that they are in fact inhabitants of the our State.

If I could suggest a stronger negative recommendation than inexpedient-to-legislate, I would.

Hon. Daniel C. Itse
Tyranny is government in defiance of reality.
(603) 702-0381

Testimony in Favor of HB 40:
AN ACT relative to domicile residency, voter registration, and investigation of voter verification letters, and relative to the terms "resident," "inhabitant," "residence," and "residency."

Rep. Timothy Horrigan (Strafford 6)
House Election Law Committee; February 7, 2023

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That means, if you live here, you can vote here. Period.

Rep. Timothy Horrigan; 7A Faculty Rd; Durham, NH 03824; email: Timothy.Horrigan@leg.state.nh.us

Judy Strakalaitis

Usurping local control.

Michael Beauchesne

I oppose this bill. I see no value add in this modifications as proposed. I view RSA 654 is adequate and serves it's purpose as written. These proposed modifications in the bill greatly weaken the definition of domicile for voting purposes and further removes the ability of the secretary of state to enforce compliance and verification. Every legal citizen of legal voting age has a right to vote in their community. If you are trying to vote where you hang your hat, then there should not be an issue of showing evidence and verification that you live there. Trust but verify. Again – I oppose this bill.

Sara Smith

,,,,,,

Laura Rundell

I went to college in Indiana and lived there longer than I did in the state where my parents lived (MI). I voted in Indiana because I lived their for the majority of the year. NH college students should have the same right.

Joe Montibello

Removing voters from the voter rolls after voting, because they didn't get or respond to a piece of mail, is completely against the principle of the "right to vote." I support this bill because the secretary of state should not be removing voters from voting rolls by default.

Margery Phillips

I support this bill

Carol Petrusewicz

There must be good intentions when writing this bill, unfortunately, this bill would cause serious harm to every NH voter. When you have harm for all, there is no choice but to vote no. Voting in elections needs to be simple. This bill muddies the water. Please vote no.

Maura Chappelle

Please do not pass HB40

I have been poring over voter checklists from the towns and city of Coös county and have lists of names of people who live in other states or the very bottom of New Hampshire that own vacation houses and rental properties here and use the address of the summer house/short term rental as their domicile

We don't have college students up here but their votes sway the outcomes in the southern part of the state every election year even though most of them are here temporarily

When testifying a few weeks ago about moving up the primary date expressed relief when a late summer date was proposed saying something to the effect of that's good, the college kids will be back. If the college students are residents why would that be a concern?

That shows they are not the same as snowbirds. Snowbirds own their property and return to the same address year after year. College students need to wait for dorm assignments and to see what apartment they can land before learning their temporary address.

I'll meet in the middle, if a college student has a rental agreement at a privately owned property they can be considered domiciled, but not a dorm. At semesters' end students can't stay in their dorms, they close, students must "go home" – that said, they should have a NH driver's license.

I had to get one within six months of moving here. So again, I'll meet you in the middle, if a college student with a lease from a private property votes they can have a one year pass on the license if the election is fewer than six months from the date they moved in

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Maura Annette Chappelle
Jefferson New Hampshire

please forgive any grammatical or spelling errors, this was written in haste and unedited

Election Law Committee **HB 40** **February 7, 2022**

Election Law Committee Members

My name is Ray Chadwick, Chairman of *Granite State Taxpayers (GST)*. *GST* supports revising New Hampshire voter law to make our voting system simple to understand and execute, resistant to fraud, and available exclusively to bona fide residents of New Hampshire.

Granite State Taxpayers Opposes HB 40

This bill modifies the definition of domicile for voting purposes and restores voting opportunities for non-residents that were removed from statute in 2018 by passage of HB 1264.

HB 40 has the intent to authorize voting in NH by out of state residents.
HB 40 is a reprise of previous efforts (HB 538, HB 106, HB 1279, HB 1653, HB 1203) to repeal HB 1264 and award voting rights in New Hampshire to residents of other states.

New Hampshire was unique in the country in allowing people to vote who are residents of other states. HB 1264 defined residency to close a loophole allowing residents of other states to vote here. GST supported HB1264, so we obviously oppose HB 40, as we did its predecessors.

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. Of that total, 491 used an out of state driver's license to change registration from one town to another town within New Hampshire While an out of state driver's license provides proof of identity, it also proves residency in another state.

HB1264 complied with the United States Supreme Court decision in DUNN v.BLUMSTEIN, March 21, 1972, which 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."*

On July 12, 2018, a NH Supreme Court Opinion on whether New Hampshire should continue to allow residents of other states to vote in New Hampshire, stated *"not only does New Hampshire have no such constitutional obligation but, quite the contrary, it has a compelling state interest not to do so."* Subsequently, a US District Court agreed.

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 residency.

With all of that background and court decisions, it's difficult to understand how some members of the New Hampshire General Court remain so committed to giving residents of other states a right to vote here. They apparently believe they gain electoral advantage from such voters.

For these reasons, Granite State Taxpayers opposes House Bill 40.

Granite State Taxpayers recommends a vote of "ITL" for HB 40.

Ray Chadwick, Chairman
Granite State Taxpayers

HB40 AN ACT relative to domicile residency, voter registration, and investigation of voter verification letters, and relative to the terms "resident," "inhabitant," "residence," and "residency."

Honorable Members of the House of Representatives Committee on Election Law,

For the record, I am Daniel C. Itse. I represented the town of Fremont from 2001 to 2018. I served as Chairman of Constitutional Review and Statutory Recodification in 2011/2012, and I rise in opposition to HB40.

The civil right of voting is or should be one of the most highly prized privileges of living within our society. It was the intention of the founders that only those who are citizens of our State, and have a vested interest in its future, and the future of the community in which they live, have the power to vote. Voting is not intended for those who have only a transient interest in New Hampshire, and its towns. Therefore, anyone who claims the right to vote in our elections must have all the duties and obligations of a citizen of State of New Hampshire. Executing those duties and obligations is the positive demonstration that they are in fact inhabitants of the our State.

If I could suggest a stronger negative recommendation than inexpedient-to-legislate, I would.

Hon. Daniel C. Itse
Tyranny is government in defiance of reality.
(603) 702-0381

Testimony in Favor of HB 40:
AN ACT relative to domicile residency, voter registration, and investigation of voter verification letters, and relative to the terms "resident," "inhabitant," "residence," and "residency."

Rep. Timothy Horrigan (Strafford 6)
House Election Law Committee; February 7, 2023

HB 40 (2023) is essentially identical to HB 538 (2021), which came before the Election Law Committee two years ago. HB 538 was deemed "Inexpedient to Legislate" by a narrow 10-9 margin, on March 30, 2021. But then, even though the House's rules state that every bill gets a vote on the floor, HB 538 was one of several dozen bills (all of them ITLed in committee) which never got a floor vote. That happened during the COVID-19 emergency, when the full House met at the NH Sportsplex in Merrimack. I could have brought HB 538 back in 2022, but I decided not to bother.

But now it is 2023, and here I am introducing HB 538's new incarnation, HB 40.

HB 40 is a combination of 2 bills which I sponsored (with many co-sponsors) in 2019, which both passed the House and Senate before being vetoed by Governor Sununu. HB 106 (2019) also covered the same ground as SB 67 (2019), which was also vetoed in 2019.

The former HB 106 is at the end of the very long bill before the committee today: it is covered by section 16 (out of 18). The former HB 105 comprises the first 15 sections. (Section 17 deals with funding, and Section 18 establishes the effective date.)

HB 538, if passed into law, would undo three earlier bills which unfairly restrict voting rights and generally make the voting process less user-friendly (or, to put it another way, more user-hostile.) Those three very bad bills were HB 1264 (2018), SB 3 (2017) and SB 318 (2012.) SB 3 is the most infamous of those three bills

Students are not the only voters who are adversely effected by the changes to voting rights law which HB 538 aims to undo. But my constituents in Durham, which is a college town, justifiably perceive those changes as an attack on students' right to vote. Every citizen over the age of 18 has the right to vote in the community where he or she lives, regardless of why he or she moved there and regardless of how long ago.

Article 11 Part 1 of our state constitution states (in part):

All 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. Every person shall be considered an inhabitant for the purposes of voting in the town, ward, or unincorporated place where he has his domicile.

That means, if you live here, you can vote here. Period.

Rep. Timothy Horrigan; 7A Faculty Rd; Durham, NH 03824; email: Timothy.Horrigan@leg.state.nh.us

Judy Strakalaitis

Usurping local control.

Michael Beauchesne

I oppose this bill. I see no value add in this modifications as proposed. I view RSA 654 is adequate and serves it's purpose as written. These proposed modifications in the bill greatly weaken the definition of domicile for voting purposes and further removes the ability of the secretary of state to enforce compliance and verification. Every legal citizen of legal voting age has a right to vote in their community. If you are trying to vote where you hang your hat, then there should not be an issue of showing evidence and verification that you live there. Trust but verify. Again – I oppose this bill.

Sara Smith

,,,,,,

Laura Rundell

I went to college in Indiana and lived there longer than I did in the state where my parents lived (MI). I voted in Indiana because I lived their for the majority of the year. NH college students should have the same right.

Joe Montibello

Removing voters from the voter rolls after voting, because they didn't get or respond to a piece of mail, is completely against the principle of the "right to vote." I support this bill because the secretary of state should not be removing voters from voting rolls by default.

Margery Phillips

I support this bill

Carol Petrusewicz

There must be good intentions when writing this bill, unfortunately, this bill would cause serious harm to every NH voter. When you have harm for all, there is no choice but to vote no. Voting in elections needs to be simple. This bill muddies the water. Please vote no.

Maura Chappelle

Please do not pass HB40

I have been poring over voter checklists from the towns and city of Coös county and have lists of names of people who live in other states or the very bottom of New Hampshire that own vacation houses and rental properties here and use the address of the summer house/short term rental as their domicile

We don't have college students up here but their votes sway the outcomes in the southern part of the state every election year even though most of them are here temporarily

When testifying a few weeks ago about moving up the primary date expressed relief when a late summer date was proposed saying something to the effect of that's good, the college kids will be back. If the college students are residents why would that be a concern?

That shows they are not the same as snowbirds. Snowbirds own their property and return to the same address year after year. College students need to wait for dorm assignments and to see what apartment they can land before learning their temporary address.

I'll meet in the middle, if a college student has a rental agreement at a privately owned property they can be considered domiciled, but not a dorm. At semesters' end students can't stay in their dorms, they close, students must "go home" – that said, they should have a NH driver's license.

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HOUSE COMMITTEE ON ELECTION LAW

EXECUTIVE SESSION on HB 40

BILL TITLE: relative to domicile residency, voter registration, and investigation of voter verification letters, and relative to the terms "resident," "inhabitant," "residence," and "residency."

DATE: February 28, 2023

LOB ROOM: 306-308

MOTIONS: **INEXPEDIENT TO LEGISLATE**

Moved by Rep. Berry | Seconded by Rep. Boehm | Vote: 10-10

MOTIONS: **OUGHT TO PASS**

Moved by Rep. Lane | Seconded by Rep. Ward | Vote: 10-10

☑ **WITHOUT RECOMMENDATION**

CONSENT CALENDAR: NO

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Jessica Grill, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/5/2023 1:43:00 PM
Roll Call Committee Registers Report

2023 SESSION

Election Law

Bill #: HB 40 **Motion:** ITL **AM #:** _____ **Exec Session Date:** FEB. 28, 2023

Members	YEAS	Nays	NV
Smith, Steven D. Chairman	X		
Berry, Ross Vice Chairman	X		
Prudhomme-O'Brien, Katherine J.	X		
Boehm, Ralph G.	X		
Qualey, James R.	X		
~~Ankarberg, Aidan~~ BOYD	X		
Burnham, Claudine R	X		
Kennedy, Stephen J.	X		
Wherry, Robert J	X		
Wood, Clayton D	X		
Lane, Connie Boyles		X	
Ward, Gerald W.R.		X	
Hamer, Heidi M.		X	
Hamblet, Joan L.		X	
Muirhead, Russell		X	
~~Bay, Luz~~ LAMONTAGNE		X	
Brennan, Angela		X	
Grill, Jessica		X	
Howard, Heath		X	
TOTAL VOTE:	10	10	

~~Palmer~~

~~Lamontagne~~

Schultz X

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

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Burnham, Claudine R		X	
Kennedy, Stephen J.		X	
Wherry, Robert J		X	
Wood, Clayton D		X	
Lane, Connie Boyles	X		
Ward, Gerald W.R.	X		
Hamer, Heidi M.	X		
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Schultz X