



PROTECTING THE VOTE FOR ALL AMERICANS

March 7, 2021

Members of the Committee on Election Law
Hon. Barbara Griffin, Chairman
New Hampshire House of Representatives

Dear Chairman Griffin and Members of the Committee:

Fair Elections Center¹ writes to voice its strong opposition to HB 362, HB 429, HB 531, HB 535, and HB 554, which are currently scheduled for a hearing before the Committee on Monday, March 8, 2021. Since 2012, Fair Elections Center has operated its Campus Vote Project to help students understand and exercise their right to vote. These bills would make it harder for students to participate in democracy, and respectfully request that this letter be entered into the record as written testimony.

These bills would make the following changes:

- **HB 362** explicitly removes college addresses as acceptable for domicile, directly preventing voters from establishing domicile through evidence of residence at an institution of learning.
- **HB 429** would eliminate student ID issued by a New Hampshire university or college as acceptable voter ID, even when it is issued by an institution funded by the state. At the same time, HB 429 would still allow voters to use student IDs issued by a public or private high school, though far fewer eligible New Hampshire voters are high school students.
- **HB 531 and HB 535**, among other things, would remove voters' ability to sign an affidavit to register and cast a regular ballot if they lack the requisite documentary proofs of qualifications. These provisions would remove a critical failsafe for

¹ Fair Elections Center is a national, nonpartisan voting rights and election reform 501(c)(3) non-profit organization based in Washington, D.C. Its mission is to use litigation, education, and advocacy to remove barriers to registration and voting, particularly those disenfranchising underrepresented and marginalized communities, and to improve election administration.

student voters, who are less likely to possess the types of documentation that can be used as proof of these qualifications. They would also disenfranchise many other voters who lack such often-expensive documentation. HB 531 also allows voter challengers to target students without allowing challenged voters to affirm their qualifications via affidavit in response to the challenge and vote.

- **HB 554** changes the definitions of domicile in New Hampshire in ways that clearly target students. It states that “a person who maintains a domicile address in another state and is eligible to retain that domicile for voting purposes is not eligible to gain domicile in New Hampshire.” This bill would sow unnecessary confusion as to whether someone is eligible to vote in New Hampshire, where the person may still be eligible to vote in another state or no longer maintains a lease, deed, or physical presence in their place of domicile, even if the person intends to return. These requirements take aim at students, as many may remain eligible to vote absentee in the states where their families reside. Others have had to return to their families’ homes in other states after COVID-19 forced campuses to close, even though they intend to return to New Hampshire.

For half a century, courts have repeatedly invalidated state efforts to exclude student voters from the electorate. In *Newburger v. Peterson*,² a federal court struck down New Hampshire’s “indefinite intention test” for determining voter residency, on the grounds that it violated students’ right to equal protection. Last year, a state court found that SB 3 violated the New Hampshire Constitution. Passed in 2017, SB 3 targeted out-of-state college students by requiring voters to supply documentary evidence of a “verifiable action” that establishes domicile in New Hampshire. Many of these “verifiable actions” are those students often have no reason to undertake such as renting or purchasing a home or enrolling a child in school. House Bills 362, 429, 531, 535 and 554 would continue this shameful tradition.

The Supreme Court of the United States has already recognized that treating college students differently from other community members based solely on student status violates the Twenty-Sixth Amendment.³ It has also invalidated voting residency requirements that punish people for exercising their constitutional right to interstate travel,⁴ because Americans “who elect to become permanent residents” of a new state have “the right to be treated like other citizens of that [s]tate.”⁵ Even if litigation against these bills were ultimately successful, their enactment would nonetheless do incredible damage to Granite Staters in the interim by preventing thousands of eligible voters from registering and wasting taxpayer money on avoidable litigation.

² 344 F. Supp. 559 (D.N.H. 1972).

³ *Symm v. United States*, 439 U.S. 1105 (1979).

⁴ *Dunn v. Blumstein*, 405 U.S. 330 (1972).

⁵ *Saenz v. Roe*, 526 U.S. 489, 500 (1999).

These bills would not only harm student voters, but other New Hampshire voters as well. COVID-19 has eviscerated the nation's economy, costing millions of workers their livelihoods. As a result, more than 30 million Americans will face homelessness when eviction moratoriums end.⁶ HB 554 would cause Granite Staters in this untenable situation to lose their domicile when they lose their lease, deed to their home, or physical presence at an address, even if they intend to remain in the same town or city. Under HB 531, it is unclear how they would be able to vote if they lack documentary proof of domicile because they live in temporary housing where they have no intent or ability to remain long-term; live in an informal housing situation without a lease or other documentation, such as a family member or friend's home; or live in a vehicle.⁷ The last thing these residents should have to worry about is losing their right to vote.

Thank you for allowing Fair Elections Center to express its opposition to HB 362, HB 429, HB 531, HB 535, and HB 554. Should you have any questions, I can be reached at mkantercohen@fairelectionscenter.org or (202) 331-0114.

Sincerely,
Michelle Kanter Cohen, Senior Counsel
Fair Elections Center
1825 K St. NW, Ste. 450
Washington, D.C. 20006

⁶ Karen Attiah, *The evictions crisis is coming. We have barely begun to face it.*, WASH. POST (Dec. 19, 2020), <https://www.washingtonpost.com/opinions/2020/12/19/evictions-crisis-is-coming-we-have-barely-begun-face-it/>; Tommy Beer, *Eviction Crisis Looming In U.S., Which Could Lead To Thousands Of Unnecessary Deaths*, FORBES (Dec. 11, 2020), <https://www.forbes.com/sites/tommybeer/2020/12/11/eviction-crisis-looming-in-us-which-could-lead-thousands-of-unnecessary-deaths/?sh=5af6e450ca33>.

⁷ See, e.g., Jessica Guynn, *'Hidden homeless crisis': After losing jobs and homes, more people are living in cars and RVs and it's getting worse*, USA TODAY (Feb. 12, 2021), <https://www.usatoday.com/story/money/2021/02/12/covid-unemployment-layoffs-foreclosure-eviction-homeless-car-rv/6713901002/>.