



November 12, 2021

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

Dear Chairman Griffin:

Fair Elections Center¹ writes to reassert its opposition to HB 531, HB 535, and HB 554, which are currently scheduled for a hearing on Friday, November 12. Since 2012, Fair Elections Center has operated Campus Vote Project to help students understand and exercise their right to vote. This legislation would make it harder for students to participate in democracy, and the Center respectfully requests that this letter be entered into the record as written testimony.

These bills would make the following changes:

- **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 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 removes the option under existing law that allows challenged voters to affirm their qualifications via affidavit and vote. This change would make it easier for bad actors to target qualified student voters while depriving these voters of a way to confirm their qualifications under penalty of law.
- **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

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.

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 and temporarily spend academic breaks at their families' homes, though they consider New Hampshire their place of domicile.

Earlier this year, the New Hampshire Supreme Court struck down SB 3—a law passed in 2017 that also complicated the registration process for student voters—because it unreasonably burdened the right to vote, as enshrined in the state constitution.² It agreed with the trial court's ruling, which had found that, among other issues, SB 3 confused voters and election workers, including by driving away eligible student voters who did not believe they had the proper documentation to register. It also threatened to create long lines at the polls and additional administrative burdens for election officials.

Although HB 531 and 535 would formally remove SB 3 from the election code, they would still result in confusion and long lines on Election Day by removing eligible voters' option to affirm their qualifications under penalty of law. They would deter or prohibit eligible student voters from casting a ballot, either because they do not possess the requisite proof of qualifications or they wrongly believe they do not. HB 554 would further add to this uncertainty and may lead otherwise eligible voters to forgo registering and voting in New Hampshire out of fear that they may incur criminal penalties. And of course, none of these bills would authorize or fund voter education efforts to clarify new requirements.

These burdens are all the more unreasonable in light of New Hampshire's proven track record of running secure elections, and by excluding eligible voters, would undermine the state's interest in promoting voter confidence in election results. The takeaway from the Supreme Court's ruling on SB 3 is that election laws should add more—not less—clarity around voter eligibility rules and facilitate, rather than hinder, the registration process. **Accordingly, the Center respectfully urges the Committee to vote no on HB 531, HB 535, and HB 554.**

Thank you for allowing Fair Elections Center to express its opposition to these bills. Should you have any questions, I can be reached at caguilera@fairelectionscenter.org or (202) 331-0114.

Sincerely,

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² *N.H. Dem. Party v. Sec'y of State*, No. 2020-0252, --- A.3d ---, at *16 (N.H. 2021), available at <https://www.courts.nh.gov/sites/g/files/ehbemt471/files/documents/2021-07/2021027-secretary-of-state.pdf>.