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

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

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

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

We urge the committee to recommend HB105 Ought to Pass.

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

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

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

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

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

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

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

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

Appendix:

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

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

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

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

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

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

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

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

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

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

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

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