



LEAGUE OF WOMEN VOTERS
NEW HAMPSHIRE

www.LWVNH.org

4 Park St Room 200
Concord, NH 03301

April 10, 2018

To: Chair Birdsell and members of the Senate Election Law Committee:

From: Liz Tentarelli, president League of Women Voters NH
(contact: home phone 763-9296 email: LWV@kenliz.net)

Re: HB 1264, relative to the terms “resident” “inhabitant” “residency” etc.

The League of Women Voters NH is a nonpartisan organization that never supports or opposes candidates or political parties but does take stands on issues after study and agreement by members. Voting rights and good government are two of our core values, and we believe HB 1264 infringes on both of those core values.

We oppose HB 1264 and urge you to recommend Inexpedient to Legislate.

I speak today as a resident and inhabitant of Newbury NH, where I am domiciled, as well as the president of the League of Women Voters. My resident/inhabitant/domiciliary status has not changed for 19 years. I move infrequently, but I am unusual statistically. Some people move every year or two, for job or family reasons. My right to vote is no greater than theirs.

We all have a federal constitutional right to vote for President and Congressional representatives. This bill attempts to restrict that vote based on housing, which is a changeable condition for many people. Military and government personnel, medical professionals, graduate students, researchers, and those down on their luck couch-surfing with friends or relying on shelters—where they are housed changes frequently, but their constitutional right to cast a vote doesn't.

We ask the committee to consider that there may be unintended consequences if the terms in this bill and other RSAs are to become equivalents.

In the spirit of the legislature when it meets in session, I ask “**Would you believe...**”

I did a search of the RSAs using keywords. Over 500 items came up for “resident.” Sixty-two RSAs came up for “Inhabitant” covering everything from taxes to LLCs to probate to requirement for being Governor. For “domicile” I found 197 RSAs using that term, many applied to voting but also to school attendance and other issues.

[in statutes below, the underlining is my added emphasis, to help readers find the key terms.]

Title LXIII ELECTIONS Chapter 655 NOMINATIONS

Qualifications by Office

Section 655:5 **Governor**. – To hold the office of governor, a person must be qualified as provided in Part 2, Article 42 of the state constitution: at the time of the election, the person must have been an inhabitant of this state for 7 years next preceding, and be of the age of 30 years.

Source. 1979, 436:1. 2003, 22:1, eff. April 24, 2003.

Section 193:12 Legal Residence Required.

I. Notwithstanding any other provision of law, no person shall attend school, or send a pupil to the school, in any district of which the pupil is not a legal resident, without the consent of the district or of the school board except as otherwise provided in this section or in RSA 193:28.

II. For purposes of this section, the legal residence of a pupil shall be as follows:

(a) In the case of a minor, legal residence is where his or her parents reside, except that:

(1) If the parents live apart and are not divorced, legal residence is the residence of the parent with whom the child resides.

(2)(A) In a divorce decree...

Source. RS 73:7. CS 77:7. GS 83:1. GL 91:1. PS 93:1. 1921, 85, III:9. PL 118:11. 1927, 58:1. RL 137:11. RSA 193:12. 1955, 227:2; 263:1. 1997, 183:6. 1998, 206:1-3, 7, 8. 2001, 294:1. 2002, 138:7. 2003, 222:1, 2. 2005, 273:19. 2006, 236:1, 2, eff. July 31, 2006. 2008, 274:16 to 19, 32, eff. July 1, 2008. 2011, 178:1, 2, eff. Aug. 13, 2011. 2012, 257:1, eff. June 18, 2012. 2013, 165:1, eff. Aug. 28, 2013.

Section 77:14-a **Partnerships and Limited Liability Companies.** – Partnerships and limited liability companies having a usual place of business in this state, any member of which is an inhabitant thereof, shall be subject to taxes imposed by this chapter. If any of the members of the partnership or limited liability company are not inhabitants of this state only so much of the income thereof as is proportionate to the aggregate interest of the partners or members who are inhabitants of this state in the profits of the partnership or limited liability company shall be taxed.

Source. 2010, Sp. Sess., 1:52, eff. July 1, 2010.

Eligibility Section 654:1**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.

I-a. A student of any institution of learning may lawfully claim domicile for voting purposes in the New Hampshire town or city in which he or she lives while attending such institution of learning if such student's claim of domicile otherwise meets the requirements of RSA 654:1, I.

II. Any elected or appointed official for whom one of the qualifications for his or her position is eligibility to be a voter in the area represented or served shall be considered to have resigned if the official moves his or her domicile so that he or she can no longer qualify to be a voter in the area represented or served. Any vacancy so created shall be filled as prescribed by law.

Source. 1979, 396:1; 436:1. 2003, 289:23. 2007, 9:1. 2009, 288:1. 2012, 285:1, eff. Aug. 26, 2012.

TITLE XV EDUCATION

**CHAPTER 187-A
STATE COLLEGE AND UNIVERSITY SYSTEM**

Finances

Section 187-A:20

187-A:20 Tuition Waived. – If a person is domiciled in this state while serving in or with the armed forces of the United States and is, after February 28, 1961, reported or listed as missing, or missing in action, or interned in a neutral country, or beleaguered, besieged or captured by the enemy during the South East Asian conflict, any child of such person, enrolled after August 16, 1981, in the university of New Hampshire, Plymouth state university, or Keene state college shall, so long as said person is so reported, listed, interned, beleaguered, besieged or captured, not be required to pay tuition for attendance at such institutions. Any person entitled to free tuition under this section shall apply to the board of trustees of the university system, and said board may require such proof as they may deem necessary in order for a person to qualify for free tuition under this section.

Source. 1981, 331:1. 1985, 140:7. 2003, 159:1, eff. Aug. 16, 2003.

**TITLE XV EDUCATION
UNIVERSITY SYSTEM**

CHAPTER 187-A

STATE COLLEGE AND

University System

Section 187-A:10

187-A:10 Out-of-State Students. – The number of undergraduate students enrolled in the university of New Hampshire from domiciles outside the state in any year shall not exceed 25 percent of the maximum capacity for regular undergraduate students at the university as determined by the board of trustees. The limitation on out-of-state enrollment at the university may be suspended by vote of the board of trustees whenever the trustees find that such suspension benefits the state and the university without impairing the opportunity for qualified students of the state of New Hampshire to attend the university. However, any such suspension shall be made for not more than one year at a time but may be continued from year to year upon vote of said trustees. The limitation on out-of-state enrollment at the university of New Hampshire shall not apply to the following divisions of the university: Thompson school of applied science, summer school and graduate school. Nor shall the limitation apply to students attending the university under reciprocal agreements and contracts with other educational institutions.

Source. 1981, 331:1, eff. Aug. 16, 1981.

TITLE XV EDUCATION

CHAPTER 187-A State College and University System

University of New Hampshire

187-A:16 Authority of the Trustees. –

XIX. Adopt rules pursuant to RSA 541-A establishing criteria for determining whether students shall be classified as in-state students or out-of-state students for tuition purposes, and to delegate the administration of such rules to a subcommittee or agent. Any student in the university system who is aggrieved by a final determination of the board of trustees or of any subcommittee or agent of the board denying in-state status for tuition purposes may appeal to the superior court in the county in which the particular division of the university involved is located....

Source. 1981, 331:1, eff. Aug. 16, 1981.

TITLE V TAXATION CHAPTER 73 PERSONS AND PROPERTY, WHERE AND TO WHOM TAXED

Section 73:1

73:1 Residents. – Every person shall be taxed in the town in which he is an inhabitant or resident on April 1, for his resident tax and estate, except in cases otherwise provided by law.

Source. RS 40:1. CS 42:1. GS 50:1. GL 54:1. PS 56:1. PL 61:1. RL 74:1. RSA 73:1. 1973, 486:2, eff. Aug. 29, 1973.

TITLE V TAXATION CHAPTER 72 PERSONS AND PROPERTY LIABLE TO TAXATION

Resident Taxes Section 72:1

72:1 Persons Liable. – On April 1 a tax of \$10, to be known as the "resident tax," shall be assessed on every inhabitant of the state from 18 to 65 years of age whether a citizen of the United States or an alien, except assisted persons, insane persons, the surviving spouse of any veteran who served in the armed forces of the United States in any wars, conflicts or armed conflicts in which it has been engaged, the surviving spouse of any citizen who served in the armed forces of any country allied with the United States in any of the wars, conflicts or armed conflicts as defined in RSA 72:28 and RSA 72:32, and others exempt by special provisions of law. The exception provided for a surviving spouse under this section shall be in the form of a tax credit to be deducted from the surviving spouse's tax bill. Any person, unless otherwise exempted by this section, who becomes an inhabitant of the state after April 1 and prior to December 1 of any year shall be assessed the resident tax.

Source. RS 39:1. CS 41:1. GS 49:1. GL 53:1. PS 55:1. 1913, 82:1. 1919, 91:1. 1919 ex, 4:1. 1923, 69:1. 1925, 32:1. PL 60:1. RL 73:1. 1944, 5:1. 1949, 291:1. 1951, 9:1. RSA 72:1. 1967, 206:1. 1970, 52:1. 1971, 476:1. 1973, 72:4; 486:1. 1979, 257:1. 1981, 546:1. 1983, 234:1. 1985, 380:48. 1991, 70:2. 1993, 73:1, eff. June 22, 1993.

*[note: the next part of the chapter Section 72:1-c **Optional Collection of Resident Tax.** – diminishes this "resident tax"---explains why most of us have never heard of it. Towns can vote to opt out.]*

Section 72:5-c

72:5-c Application. – On and after July 10, 1971 all references to "poll taxes" or "poll tax" in the laws of the state shall be construed to mean "resident tax" as enacted in RSA 72:1.

Source. 1971, 476:4, eff. July 10, 1971.

[whoa! This one brought me up short. Is that all NH did to get out from under the "no poll tax" federal laws? Just change the name? Is that what is going on with HB372 and HB1264? Change the words to deny voting rights to some?]

TITLE V TAXATION CHAPTER 72 PERSONS AND PROPERTY LIABLE TO TAXATION

Property Taxes Section 72:41-a

72:41-a Removal From State; Residency Requirement. – Any person who has qualified for the exemption under RSA 72:39-b, who has met the conditions for an exemption under RSA 72:39-a, and who has filed a permanent application for the exemption under RSA 72:42, shall not be required to meet the residency requirement under RSA 72:39-a a second time if it becomes necessary for the person to leave New Hampshire and establish residency in another state for any length of time due to health reasons, and who then reestablishes his residency in New Hampshire.

Source. 1987, 245:1. 1996, 140:5, eff. Jan. 1, 1998.

TITLE XXXVII INSURANCE CHAPTER 417-A REFUSAL TO ISSUE, CANCELLATION AND REFUSAL TO RENEW AUTOMOBILE INSURANCE

Section 417-A:3-b

417-A:3-b Statement of Residency. –

- I. All applicants for coverage under new policies of automobile insurance shall sign a statement of residency, on a form prescribed by the insurance department, which the insurer shall provide as part of the application or upon delivery of the policy papers to the insured for such insurance.
- II. The statement prescribed in paragraph I shall also contain the definition of "resident" adopted by the commissioner pursuant to RSA 412:43, II.
- III. A person who falsely attests to the statement of residency prescribed in paragraph I shall be subject to prosecution for unsworn falsification under RSA 641:3, and, upon conviction, to imposition of the maximum fine without suspension or diminution, along with other penalties authorized by law.
- IV. Any nonresident who meets the requirements for nonresident registration under RSA 261:46 shall be exempt from the provisions of paragraph I.

Source. 1992, 282:14. 1997, 238:9. 2002, 207:16. 2003, 144:10; 150:10, eff. Jan. 1, 2004.

(checking the RSA cited in the above statute, we come to the one below and felt ourselves dropping down Alice's rabbit hole:)

TITLE XXXVII INSURANCE CHAPTER 412
REGULATION OF FORMS AND RATES FOR PROPERTY AND CASUALTY INSURANCE

Miscellaneous Applicable Provisions, Penalty, Rehearing and Appeal Provisions

Section 412:43

412:43 Rulemaking Authority. –

- I. The commissioner may make reasonable rules as necessary to effect the purposes of this chapter.
- II. The commissioner shall adopt rules, under RSA 541-A, relative to defining "resident" for the purposes of this chapter and RSA 417-A. Such definition shall include any criteria necessary for determining residency in this state, including the residency of persons on active duty in the military service of the United States, retired persons, and other persons temporarily out of this state.
- III. [Repealed.]

Source. 2003, 150:1. 2011, 137:2. 2012, 100:9, eff. July 28, 2012.

In closing:

If the intent of this bill, like some other bills this session, is to limit the voting rights of people who don't fit the established life pattern you and I happen to have, it's just plain mean. But more to the point it conflates terms with varying connotations that have been used in our statutes for decades and have been so adopted by our Legislature for good reasons. **Please consider the unintended consequences.**

I doubt the university system will take kindly to your changing non-resident students' tuition status with the stroke of a pen and their payment of car registration fees.

The League of Women Voters NH opposes HB 1264 and we urge the Senate Election Law Committee to vote *Inexpedient to Legislate* on HB 1264.