



LEAGUE OF WOMEN VOTERS
NEW HAMPSHIRE

www.LWVNH.org

4 Park St Room 200
Concord, NH 03301

Jan. 25, 2018

To: House Election Law chair Griffin and committee members

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

Re: **HB 1543, relative to domicile of students for voting purposes**

When I was a college student many decades ago, I couldn't vote. I was under 21 for most of those years. Now nearly all college students are eligible to vote as the minimum age is 18. But many don't (statistics cited below). Part of the problem is a perception that voter registration is too hard. That perception needs to change if we ever hope to have more than a minority of the adult population decide the fate of elections. The habit of voting, the recognition of the civic responsibility on a personal level, is--like most habits--best started young. **The League urges this committee to recommend Inexpedient to Legislate on HB 1543.**

In the past several decades, courts, including those in New Hampshire, have held in many cases that **any government restriction on voting must be justified by a compelling government interest and must be necessary to accomplish a legitimate governmental purpose.** Since there is no evidence that college students are fraudulently registering to vote, there is no compelling government interest in requiring them to meet certain conditions that are over and above what other citizens are required to meet when registering to vote.

The NH Constitution makes it clear that all inhabitants of the state who are 18 or over have an equal right to vote in the voting district where they live. *"[Art.] 11. [Elections and Elective Franchises.] 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....."* The important words are "every inhabitant" and an "equal right." That means that certain groups or classes of citizens cannot be held to a different standard for voting. That would include requiring certain groups of people to provide information that is not required of other groups.

Court cases over the past three decades have supported the right of college students to choose whether to register to vote in their college towns or in the towns where their parents reside. Registering in their parents' home town can be problematic for students whose parents view the newly emptied nest as good enough reason to move to another town or state—the student has no reason to view that new location as his or her home, even if the student spends several weeks a year there visiting family. Nor do most students follow the political news from their hometowns or home states as closely as they may follow the up-close and personal appearances of candidates on their college campuses. For these reasons, and because

college students are notoriously bad at doing things in advance, such as getting an absentee ballot application in the mail, in time, to their town clerk “back home,” many college students choose to register in the town that is home for 9 or more months a year. They want the excitement of voting in person. If that is what will encourage more young people to vote, I’m all in favor.

If enacted, this bill’s discrimination against college students will be susceptible to court challenges. I have appended descriptions of several court cases, most dealing with a requirement of college students to fill out a questionnaire before their registration is accepted. I grant that no questionnaire per se is mentioned in HB1543. However, the list of possible “evidence” in section (b) is definitely not something I had to provide when registering to vote in Newbury 19 years ago. Most glaring of these is “participation in community and professional activities in New Hampshire” as evidence of domicile. When I moved back to NH in 1999, I was retired, had no professional activity in the state, and waited at least 3 months before joining the League of Women Voters and 4 years before running for a town office. Does not the college student’s attendance at classes and clubs at the college, spending money at local stores and restaurants, working a local job, perhaps volunteering at a school or community program, meet that criteria of “participation in community”? How is the phrase “out-of-state” for tuition purposes more important than that?

Voting statistics: In the important and hotly contested Presidential election of 2016, only 46 % of eligible voters ages 18-29 voted, based on self-reported surveys. If those numbers are accurate, they show a slight increase over similar surveys in 2012 (1.1% increase in that age group). (source: Census Bureau project reported in <http://www.electproject.org/home/voter-turnout/demographics>)

I tried to find data for just 18-24 years olds (college students and other first time voters) for 2016 but couldn’t. The best I can do is report about the well-researched mid-term election of 2010, where the age ranges were finer. Among young eligible voters ages 18 to 24 years, a mere 21 percent of them showed up to vote in 2010.

Overall voter turnout of 60.2% of the adult citizen population in 2016 (as reported in The Hill 3/16/17) decided the fate of the Presidential election. An even smaller number, typically 45% of eligible citizens overall, decide mid-term elections.

Some court cases of relevance to HB 1543:

(these are federal cases):

--The Supreme Court, in a 1979 ruling in Symm vs. the United States, upheld college students’ right to register to vote at either their college address or their previous home address. That case dealt with the policy [similar to a more recent policy in Greenville county, SC, which is also facing court challenge] of a voter registrar in Texas to issue questionnaires to college students who registered using their campus address. [The questionnaires in SC were an 11-question form mailed to every college student who lists a campus address as their legal residence that asks questions like where they bank, where they attend church, what ties they have to the

community or where their parents live.]

--Frazier v Callicutt was heard in Mississippi's federal district court in 1974. The court ordered that a county couldn't hold students at a historically black college to a "more stringent standard" of voter registration than other applicants.

--A 1971 case in Middlebury, Vermont, [Shivelhood v. Davis, 336 F. Supp. 1111 (D. Vt. 1971)

US District Court for the District of Vermont - 336 F. Supp. 1111 (D. Vt. 1971)
December 30, 1971]

--a 1972 case on behalf of Penn State University students [sorry, I could not find a case number]

-- a 1991 case with Skidmore College students. The US District Court in New York ruled on behalf of the students. In October 1988, the Saratoga County Board of Elections rejected nearly 170 students who attempted to register to vote, on the basis of their residence in campus housing. Ten students responded by filing a lawsuit against two county election commissioners. A month later, a federal court ruled that the students could indeed vote in Saratoga in the 1988 elections. The same plaintiffs sought a more conclusive judgment, which came in the form of a December 1991 US District Court ruling [LEVY v. SCRANTON No. 88-CV-1103] that granted "all Skidmore College students who have applied or will apply to register to vote as residents of dormitories or other on-campus housing" the right to do so.

State Supreme Courts cases:

Starting with NH: --I think this bill, HB1543, which requires a consideration of the student's length of time in the state, would also go against the ruling in Newburger v. Peterson, 344 F. Supp. 559 (D. N.H. 1972) . That ruling struck down a New Hampshire law that disqualified a citizen from voting for having a "firm intention of leaving that town at a fixed time in the future."

--State Supreme Court cases in California and New Jersey also ruled that states couldn't treat college students as a separate class of voters who had to meet more stringent terms to be able to register to vote at the location they called their legal residence.

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