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To House Election Law Chair Griffin and the Committee

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**SB418** is another attempt to make voting procedures more complicated in order to chase the phantom of the white van with Massachusetts voters visiting our state biennially. We must not let the innocuous “verification of voter affidavits” in the title lull us into thinking this bill won’t change things much. It will create provisional ballots. The fancy name doesn’t mask what it is. Voters don’t like provisional ballots. The election results are delayed. Already overworked town clerks will have additional chores following elections. The supervisors of the checklist will be tasked with individually explaining what someone must do, right before or after that person has apparently voted. Confusing? Yes. **Please recommend SB418 Inexpedient To Legislate.**

I would like to testify against SB418 from the perspective of the League of Women Voters, a non-partisan organization whose mission is empowering voters.

We produce fliers and brochures for public distribution that explain in the simplest language we can use what a person must do to register and to cast a ballot. That challenge gets harder every time legislators tighten laws as a solution to a crisis that does not exist. We do not have a crisis of fraudulent voting. This bill would not have prevented one of our congressional candidates from voting in both the New Hampshire and the New Jersey presidential primaries in 2016. Nor would it have stopped the stubborn coot a few years ago who believed that owning homes in two towns entitled him to two votes.

What it will do will be to confuse and ultimately disenfranchise eligible voters.

The burden of trying to clear through the confusion will fall not only on the League of Women Voters, but on every supervisor of the checklist in New Hampshire. Note on page 4, the very last section of the bill, that the Secretary of State “shall provide training for supervisors of the checklist on how the nonpublic data in the statewide centralized voter registration database may be used to satisfy voter identification requirements.” Okay. But please also note that supervisors of the checklist are elected officials and are not required to take training. So will the database be used as it might be? Will individual supervisors feel comfortable affirming IDs this way? Or will they hand packets to the voters who have forgotten/lost/don’t possess photo IDs and say, “Read this, fill it out, mail it back within 10 days”?

Honestly, I don't think supervisors would do this so cavalierly, but instead try in the middle of the confusion of the polling place to explain exactly what the voter must do so his/her vote is not "uncounted" in ten days. And the voter, eager to get home and get dinner on the table for the kids pulling on coat-tails through all this, will say "Sure, I should be able to do that."

None of us have seen what the form or the directions will look like as they haven't been drafted yet. But if things follow the usual course, the form will say something like this:

You are required to complete and sign the enclosed form under penalty of perjury and submit it in the envelope provided with a copy of your (as checked below)...

\_\_\_\_\_ Driver's license or other photo identification including but not limited to the following forms, current or expired no more than five years except for those persons aged 65 years or more for whom no expiration deadline applies...*[pretty extensive list here]*

\_\_\_\_\_ Proof of domicile including any of the following.... *[and here I expect they will resurrect SB3 convoluted language]*

\_\_\_\_\_ Proof of citizenship in the form of a birth certificate (if your name has been changed through marriage or a court decision you must also include a copy of the decree or marriage certificate); a US passport current or expired no more than 5 years unless you are 65 years of age or older for whom no expiration deadline applies; or naturalization papers whose date and place of naturalization match the information given on your registration form

... and so on. *Frankly this language isn't impossible to understand (probably because I wrote it and I've been trying to state election law simply for the past 20 years). But it requires understanding terms like "proof of domicile" and many people have no idea what "domicile" means. And it might conclude with something terrifying like...*

Failure to supply these documents in the requisite period of time will result in the cancellation of your ballot in the \_\_\_\_\_ election and the submission of your name and address to the New Hampshire Attorney General for further investigation. Under RSA whatever the fine for fraudulent voting is \$2,000 and confinement in your basement for a period up to 3 years.

*Since 2012 I've explained the various forms of acceptable identification many times to people and groups, and invariably, no matter how I phrase it or bold/underline it in a flier, someone comes away with the idea that they need to submit ALL the items on the list rather than just one, and then believe they can't vote because they don't have all those items.*

And what is the voter likely to do who is given this packet of instructions about what to do to verify his/her ballot? Upon leaving the polling place, I predict most will simply toss the packet in the car or stuff it in a pocket and continue on the day's errands, and forget entirely that the harried supervisor prescribed next steps. By the time the car gets cleaned and the packet is found, the deadline is past and the eligible voter has been disenfranchised.

In 2017, the legislature passed SB3, which was ultimately declared unconstitutional by the courts, at a cost to the state of millions of dollars and hundreds of hours of staff time. One of the big reasons for that ruling was the confusion created by SB3, in its language and in its complicated provisions. Duh. But it was also declared to impose an unrealistic burden on the would-be voter.

Because the ongoing lawsuit stayed the SB3 process, SB3 was operational in only one election. Since then we've had multiple local, state, and federal elections, in which Challenged Voter Affidavits enabled eligible voters to cast ballots even if they forgot their ID or didn't have a utility bill to prove domicile upon registration.

Without SB3 in effect, voter fraud has not increased.

But wasn't rampant voter fraud the threatened outcome if SB3 were not enacted?

That assumption has been disproven.

The sponsors of SB418 will argue that we must "restore the public's faith in our elections." Putting bar codes or numbers on some ballots will NOT restore confidence in the election system. Placing the ballot in a side pocket will not assure the voter it will be counted. Handing a voter a packet of instructions, likely written in the complicated legalese that led to SB3's demise, will NOT create trust. Rather it will create doubt about the privacy of the election process and the accuracy of the vote count.

Like SB3, this bill will create additional paperwork for voters and for town election officials. More paperwork means more time spent with each voter at the polls on election day, amid noise and confusion.

How many election workers will we lose from the frustration of trying to explain why a voter's ballot will get an identifying bar-code or number? How much anger and confusion will arise when the coded ballot is put in a side pocket rather than going thru the machine? "Will my ballot be counted?" is the logical reaction to being treated differently.

How many potential voters registering for the first time in the Granite State, who have heard from friends and neighbors that "in New Hampshire you can register on election day at the polls," will feel hoodwinked if they don't have every single paper proof requested?

How many voters will declare "Never again!" in frustration?

We already take photos of people who vote without a photo ID or other identification. The Secretary of State already processes those people's affidavits, and the Attorney General already does a follow-up. Must we make this even more complicated?

Voter fraud is extremely rare in New Hampshire, voter turnout is the envy of many other states, and this bill is not needed. And even Governor Sununu has serious reservations about it. I respectfully ask this committee to save everyone grief by **recommending SB418 Inexpedient To Legislate.**