

Notice of Controversy

On this day, July 31, 2024, we, the undersigned members of the New Hampshire House of Representatives, call on the Speaker of the House, Sherman Packard, to call the House back into special session to review the recent decisions of the Supreme Court Of The United States (SCOTUS) in *S.E.C. v. Jarkesy* and *Loper Bright v. Raimondo*, the new laws of the land.

We believe the issue is, what effect do these decisions have on our laws, specifically the constitutionality of the Ballot Law Commission (BLC)?

Under Article 6 of the United States Constitution (supremacy clause), new federal decisions by SCOTUS directly impact state law because when the Ballot Law Commission exercises its statutory rule-making powers, it provides for how Federal Ballots are sorted and counted. Therefore, they are subject to the jurisdiction and decisions of Federal Courts.

We believe that the BLC can no longer exercise rule-making or law-making powers reserved to the New Hampshire Legislature under the United States Constitution, Article 1, Section 4, Clause 1, under the new binding precedent, as such authority still resides in the New Hampshire Legislature and not an unelected administrative body (BLC).

Under new precedent, the Ballot Law Commission may no longer operate as a Judicial tribunal. Only the General Court has the authority to judge election results, as provided in the New Hampshire Constitution under:

Part II, [Art.] 22. - "The House of Representatives" ... "shall be judge of the returns, elections, and qualifications of its members, as pointed out in this Constitution."

Part II, [Art.] 35. - "The senate shall be final judges of the elections, returns, and qualifications, of their own members, as pointed out in this constitution."

Part II, [Art.] 42. - "The governor shall be chosen biennially in the month of November; and the votes for governor shall be received, sorted, counted, certified and returned, in the same manner as the votes for senators; and the secretary shall lay the same before the senate and house of representatives, on the first Wednesday following the first Tuesday of January to be by them examined, and in case of an election by a plurality of votes through the state, the choice shall be by them declared and published."

Part II, [Art.] 60. - "The freeholders and other inhabitants in each county, qualified to vote for senators, shall some time in the month of November, give in their votes for one councilor; which votes shall be received, sorted, counted, certified, and returned to the secretary's office, in the same manner as the votes for senators, to be by the secretary laid before the senate and house of representatives on the first Wednesday following the first Tuesday of January."

Therefore, we believe that these new precedents are now binding on the New Hampshire Legislature, which now makes void all of the Ballot Law Commission's statutory authority to function.

So, it stands to reason that you, New Hampshire House Speaker Sherman Packard, should now call the House into session to address this issue and organize all the necessary corrective actions in time for the upcoming primary elections on September 10, 2024. It is our sworn duty as representatives of the people to ensure that New Hampshire elections are free, fair, and equal, as the New Hampshire Constitution provides.

Respectfully, we, the subscribed members of the New Hampshire House of Representatives, now await your call to assemble on this pressing matter.

Respectfully,

Representative JD Bernardy
Rockingham 36

Representative Shane Sirois
Hillsborough 32

Representative JR Hoell
Merrimack 27

Representative Deb Hobson
Rockingham 14

Representative Nikki McCarter
Belknap 8

Representative Diane Kelley
Hillsborough 32

Representative Leah Cushman
Hillsborough 28

Representative Kelley Potenza
Strafford 19

Representative David Love
Rockingham 13

Representative Kristine Perez
Rockingham 16

Representative Claudine Burnham
Strafford 2

Representative Katelyn Kuttub
Rockingham 17

Representative Jose Cambrils
Merrimack 4