



TO: The Honorable Craig Hickman
The Honorable Laura Supica, Co-Chairs
Members of the Joint Standing Committee on Veterans and Legal Affairs

DATE: May 22, 2023

RE: LD 1959 - An Act Regarding Open Primary Elections and Ranked-choice Voting

Senator Hickman, Representative Supica, and members of the Joint Standing Committee on Veterans and Legal Affairs. My name is Will Hayward, and I am a resident of Portland. I am here to testify on behalf of the League of Women Voters of Maine.

As you may be aware, the League of Women Voters of Maine has an established position in support of ranked choice voting (RCV) that includes both primary and general elections. While this system has been implemented for federal elections, we find our current situation, in which the general election for Governor, State Senators, and State Representatives continue to be conducted by plurality, to be unsatisfactory. We are intrigued by the novel approach introduced in LD 1959; but as an organization, we adopt policy positions through a process of study and member consensus, and there are several aspects of this proposal that we have not yet studied, and so we testify **neither for nor against** LD 1959.

LD 1959 establishes two systems for general elections in Maine: a top-four system for US Congress and US Senate, similar to Alaska's current system, and a novel top-two system for Maine governor and Maine legislature. In both systems proposed, the primary election would be held using RCV, while in the general election RCV would be used only for federal offices.

We would like to share our observations as you consider this bill.

- We are not aware of any jurisdictions currently using the novel top-two approach proposed for Maine governor and legislature. Top two, nonpartisan primaries have been used in several states, in each case the candidates for the general election are selected through a vote-for-1 ballot, rather than through ranked choice voting.
- For that matter, we are not aware of any jurisdictions using the top-four approach proposed for federal races. Alaska has used a top-four primary in just one general election to date, but they don't use an RCV primary. We would be breaking new ground with this approach. With the same set of voters and the same ranking, one would expect to get the same result from running the primary results down to the last two candidates, leading one to ask, what's the point of the later general election: just the passage of time and a long campaign?
- Any top-two open primary may result in a general election between candidates

from the same party, with a top-four primary muting this risk. The use of ranked choice voting further ensures that this would only occur when one party's candidates are significantly more popular than the other's.

- In a state election with more than two candidates having similar support, the stakes of the primary election may be heightened. It is worth considering whether raising the stakes of the primary election, which is likely to feature lower turnout, is a desired policy decision.
- Pushing the nonpartisan primary ahead to March in presidential election years creates another area of uncertainty, with a possibly more consequential election taking place even earlier in the election cycle.
- It is difficult to assess the effect this approach might have on independent candidates. Independent candidates can access the general election ballot with support that is weaker than support for party candidates that have lost their primary. These weaker candidates inject a degree of unpredictability, also known as the spoiler effect, into the general election that would be reduced by requiring all candidates to participate equally in the primary.
- However, limiting the general election to two candidates could reduce the richness of the policy debate in the higher profile general election and may contribute to more negative campaigning. Extending ranked choice voting to the general election could more effectively address this problem.
- This bill would require independent and other candidates to compete more vigorously earlier in the election cycle, with a ripple effect on the qualification timeline and on campaign financing for independent and small-party candidates. It may require more money earlier in the campaign cycle, possibly calling for adjustments in the Maine Clean Election Act. It could also disadvantage candidates who enter the earlier contest without significant name recognition.
- It is difficult to assess the effect this approach might have on established political parties. Parties could continue to recruit candidates and set party platforms. Most general election races will continue to feature a Democrat and a Republican, but given Maine's history of support for independent candidates, we expect that top-two primaries will result in some general election races where either the Maine Democrats or the Maine Republicans are excluded.
- While all voters, regardless of party affiliation, will rank the same set of candidates, partisan voters may rank the candidates from their own party at the top of their ballot such that many of these ballots would resemble ranked choice ballots from a party primary. Unenrolled voters may prefer to rank all candidates, rather than choosing the primary ballot for one party, as they may do today.

While RCV has been fully implemented for federal elections in Maine, our current situation deprives voters of their full choice. While LD 1959 would ensure that those elected to state office have majority support, the methods proposed do not have a long track-record; in fact, they have no track record at all. As an organization, LWVME has not developed a position in support of the proposed method for achieving majority winners through our consensus process, and therefore our position is Neither For Nor Against. Thank you for the opportunity to testify, and I would be happy to answer any questions from the committee.