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May 16, 2025

Senator Craig Hickman, Chair  
Representative Laura Supica, Chair  
Committee on Veterans and Legal Affairs  
100 State House Station  
Augusta, Maine 04333

RE: L.D. 1977, An Act to Amend the Laws Governing Elections

Senator Hickman, Representative Supica, and honorable members of the Joint Standing Committee on Veterans and Legal Affairs, I write on behalf of the Office of Attorney General in support of two specific provisions contained in the Department of Secretary of State's agency bill, L.D. 1977. These provisions, found at sections 18 and 20 of the bill, are needed to respond to a decision of the United States District Court for the District of Maine concerning the rights of minor political parties in Maine.

In *Baines v. Bellows* (Docket No. 1:19-cv-00509-LEW) (D. Me.), the Maine federal court ruled that, as applied to the Libertarian Party and other plaintiffs, Maine's requirement that only enrollees of a candidate's political party may sign the candidate's primary petition violated the First Amendment. *See* 21-A M.R.S. § 335(2). The court also ruled that, as applied to the plaintiffs, Maine's process for disqualifying established parties that fail to meet the requirements for continued qualification amounted to "forced disaffiliation" in violation of the First Amendment. *See* 21-A M.R.S. §§ 304 and 306.

The *Baines* decision provides a roadmap for future legal challenges to these statutes. Because such challenges are generally brought under the federal civil rights statute, 42 U.S.C. § 1983, prevailing plaintiffs are typically entitled to recover their attorneys' fees and costs from the defendant state agencies.

Sections 18 and 20 of L.D. 1977 make modest changes to Maine's primary petition and party disqualification statutes that would resolve the constitutional issues *Baines* found with those statutes. Section 20 amends 21-A M.R.S.A. § 335(2) to allow each qualified political party to decide for itself whether its primary candidates must limit petition signatures to enrolled party members or whether they may also collect signatures from unenrolled voters. This proposed amendment would essentially enshrine into law the remedy that the District Court ordered the Secretary of State to provide to the Libertarian Party of Maine in *Baines*. Under the amendment, small parties whose candidates may have difficulty finding enough party members within their electoral districts to sign their petitions could opt to allow their candidates to collect signatures from unenrolled voters in addition to party members. This change will reduce the burden on

minor party candidates while still ensuring that the candidate enjoys some modicum of public support. The amendment simultaneously protects the interests of larger parties that may not wish to open the petition process to non-members by making the inclusion of unenrolled voters in the process a party decision.

Section 18 addresses the federal court's ruling on the party disqualification process. Under the proposed amendment, the Secretary of State would provide an established party that loses qualified status with an opportunity to regain its qualified status before its members are disenrolled. Disqualified parties would have up to two years to bring their enrollment numbers above the 5,000-member threshold required by law before losing their enrollees. Since established parties that become disqualified are likely to have dipped only slightly below this threshold, the proposed requalification process should allow any party with a modicum of popular support to achieve requalification with little cost or effort. The proposed process should thus fully address the concerns set forth in *Baines* while still furthering the important governmental interest in avoiding administrative burdens and voter harms that result from indefinitely allowing voter enrollment in defunct parties.

In sum, enactment of sections 18 and 20 will help to protect the constitutional rights of minor political parties and their members while also protecting the State from potentially costly future litigation.

I appreciate the Committee's consideration of this testimony.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jon Bolton", with a stylized, cursive script.

Jonathan Bolton  
Assistant Attorney General