Senator Baldacci, Representative Salisbury and distinguished members of the Joint Standing Committee on State and Local Government,

I'm Kevin Lamoreau, a CAD Data input person, school board member and, of much more relevance here, an elections and election law enthusiast from Augusta, Maine. I'd like to thank my State Representative, Bill Bridgeo, for submitting LD 1388 on my behalf and for his supportive testimony. I'd also like to thank the League of Women Voters of Maine for their support of this concept, in particular Debra McDonough who from what I can tell has been the main LWVME advocate for replacing participation thresholds with approval thresholds. Thanks also to Representative Sato for submitting LD 1517 on behalf of the LWVME.

Under current Maine law, for a municipal charter to be adopted or changed, in the required referendum, not only do there have to be more Yes votes than No votes, but the combined number of Yes and No votes has to be at least 30% of the number of votes cast in the municipality in the last gubernatorial election (presumably the valid votes cast for Governor). In a municipality with 3,333 votes cast in the last gubernatorial election, 30% of that would be 999.9 which rounds to 1,000. If the result of a charter referendum was 600 Yes, 399 No, there would only be 999 votes cast and the proposed charter or charter change would *not* be adopted. If, on the other hand, the result was 600 Yes, 400 No, there would be 1,000 votes cast and the proposed charter or charter change *would* be adopted. What's the difference between those two scenarios? A vote *against* the proposed change that helped it go through. That makes no sense to me. There have been instances, such as in Waterville in 2013[1][2][3] on revising its Charter, and in Monmouth that same year on withdrawing from RSU 2[4] (one of the many types of referenda addressed by LD 1517), that more people voting No would caused the proposed change to go through. There have also been cases where a change proposed in a referendum met the threshold (and had more Yes votes than No votes) and thus was adopted, but if all of those who voted No had either stayed home or just left that question blank, it would have failed to meet the threshold and not have been adopted. An example of this is West Bath's successful vote to withdraw from RSU 1 in 2015.[5] This paradoxical situation has also been the subject of scholarly papers.[6][7]

LD 1388 would keep the obvious requirement that there be more Yes votes than No votes in a referendum for a charter adoption or change to go through, but would change the threshold to the number of votes *in favor* of the proposal being at least 15% of the number of votes cast in the municipality for Governor in the last gubernatorial election. In the hypothetical municipality mentioned above, 15% of 3,333 would be 499.95 which rounds to 500. So, the requirement for a charter adoption or change to go through in that municipality would be that there be at least 500 Yes votes, plus more Yes votes than No votes, of course.

15% is half of 30%, so the number of Yes votes required would be practically the same as the minimum number of Yes votes that would possibly do the trick under current Maine law. There would need to be at least 501 Yes votes in this municipality under current Maine law, as 500 Yes, 499 No would be short of the threshold, while 500 Yes, 500 No would be less than a majority of those voting on the question voting Yes. So you're essentially (except for a potential one vote difference), making the minimum number of Yes votes that would possibly be enough under the current threshold, having that be the new threshold. LD 1517 does basically the same thing for most of the types of referenda covered
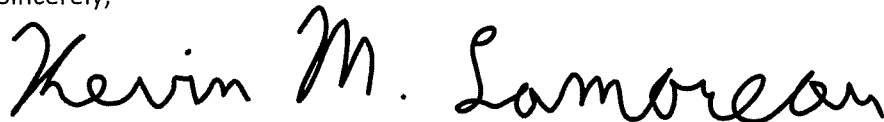
by that bill (where the current threshold and thus the threshold proposed in LD 1517 vary between the different types) but requires that the reduced threshold be exceeded and not just met, so in the case of the hypothetical municipality referenced here trying to amend its charter, the number of Yes votes required would be 501, the exact number which is the minimum number of Yes votes that could possibly result in the charter amendment going through under current Maine law. Since how rounding is done for a calculated minimum value that must be either met or exceeded in the case where the calculation does not come out to a whole number of votes is slightly ambiguous, and perhaps not something this committee wants to get into the weeds regarding, I personally feel that having the minimum be a calculated value of Yes votes that simply must be met, rather than exceeded, makes more sense.

LD 1517 only reduces the threshold for a municipality deorganizing by just under a third of the current threshold rather than just under half, from at least 50% to greater than 1/3 of the total votes cast in the municipality at the last gubernatorial election. This is presumably due to what looks roughly like a 2/3 favorable vote requirement for deorganizing, which would mean that the smallest number of Yes votes that would possibly be enough that both the 50% threshold and that 2/3 favorable vote requirement would be 1/3 of the votes cast in the municipality at the last gubernatorial election. The way that section reads, referencing "the general election" (which all deorganizing votes are to be held in, although I don't know if that means it has to be in an even-numbered year), blank votes of voters who skipped that question but may have voted on other ballot items apparently count toward the denominator, and if the deorganization election is held in an odd-numbered year that 2/3 favorable voter requirement could perhaps be interpreted as a second threshold, just referencing the last general election, not necessarily the last gubernatorial election. Some further polishing of that section (30-A MRSA §7209, in the first paragraph and in sub-§2) might be advisable.

Thank you for the opportunity to testify on behalf of these bills. I am happy to answer any questions.

Sincerely,

Kevin M. Lamoreau
Augusta, Maine

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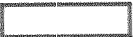
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Legend:
- 'Yes' side effectively wins
- 'No' side effectively wins
- LD 1388 would change to 'Yes' win
- Impact of 'Yes' votes
- Impact of 'No' votes
- Intuitive change in result
- Paradoxical change in result
- No change in result
- The "Quadrilateral of Paradox"

'Yes' votes

Equal # of 'Yes' and 'No' votes

Current 30% Participation Threshold

Legend:
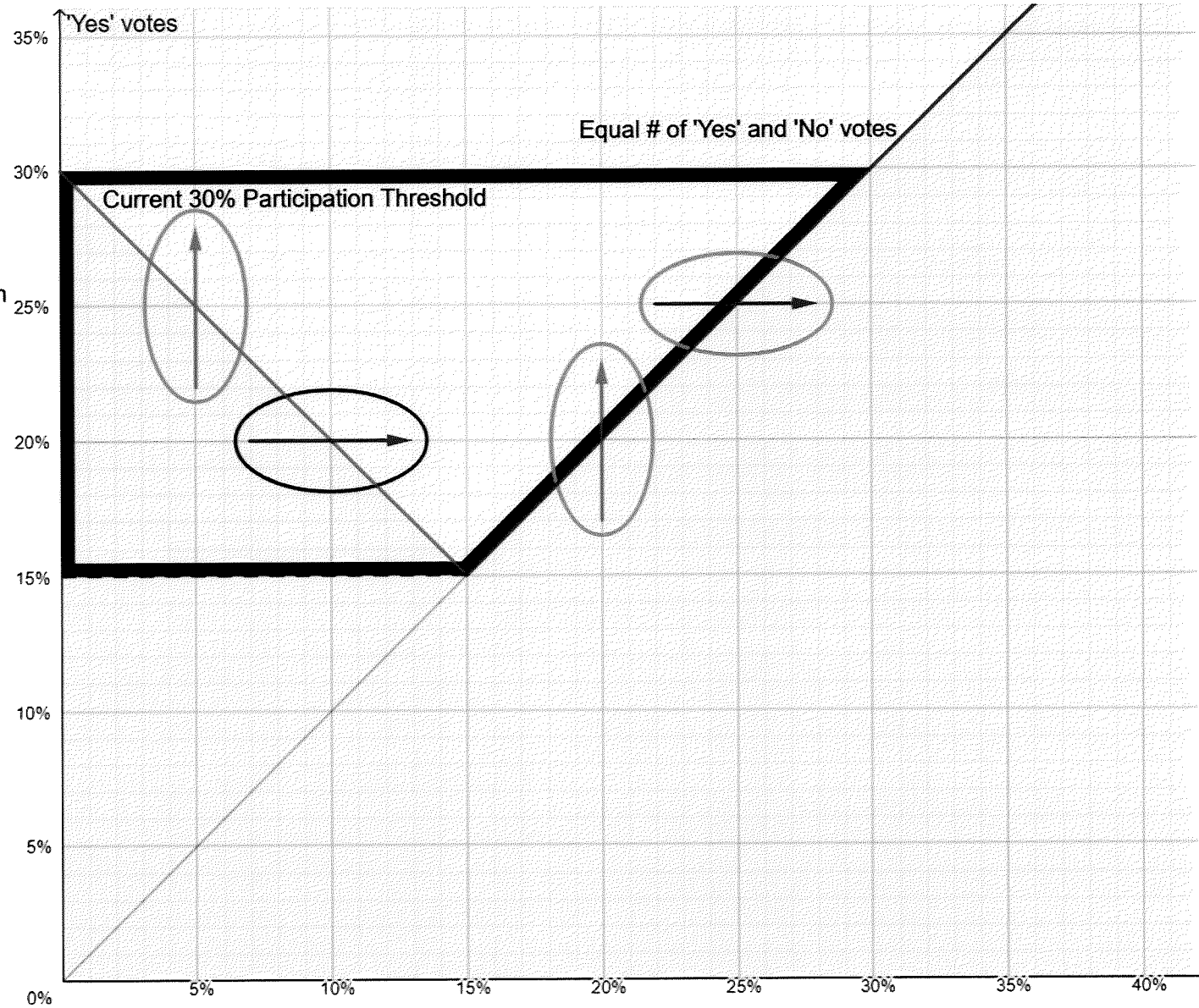
- 'Yes' side effectively wins
- 'No' side effectively wins
- Changed to 'Yes' win under LD 1388
- Impact of 'Yes' votes
- Impact of 'No' votes
- Intuitive change in result
- Paradoxical change in result (none)
- No change in result
- The "Quadrilateral of Paradox" (nonexistent here)

'Yes' votes

Equal # of 'Yes' and 'No' votes

Proposed 15% Approval Threshold