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JOINT STANDING COMMITTEE ON VETERANS AND LEGAL AFFAIRS

Testimony of Shenna Bellows, Secretary of State
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Testifying In Opposition to

L.D. 38, "An Act Requiring Photographic Identification for Voting"

Senator Hickman, Representative Supica and Members of the Joint Standing Committee on Veterans and Legal Affairs, my name is Shenna Bellows, I reside in Manchester, and I am the Secretary of State and chief elections officer in Maine. I am speaking today in opposition to L.D. 38.

We should all be very proud that Maine ranks consistently at the very top of the list in voter participation in the nation. Proponents of bills such as this over the years have argued that we are an outlier and urged us to adopt practices that would bring us more in line with other states. I would urge caution in adopting any measures that might create barriers to the right to vote and drag Maine's voter participation and public confidence in elections down to the levels of apathy and low participation that many other states suffer.

We can all agree the constitutional right to vote, guaranteed to all Maine citizens, is fundamental to our democracy. All voters should have the freedom to vote equally, and any bill that infringes on that freedom should be viewed with the strictest scrutiny with regards to the need and the public interest. Forcing people to carry a specific type of photo identification (ID) to vote would result in logistical challenges, financial burdens and potential discrimination.

This is not a bill about whether or not we need to ensure the identity of Maine voters. Maine elections are free, safe and secure, and we already require proof of identity at the point of voter registration. This is a question of whether people should be forced to carry specific types of photo identification documents with them and to produce those documents when they go to vote. It is a bill that would increase costs, complications and consequences to our elections and turn eligible voters away.

Requiring a specific voter ID at the point of voting rather than registration is not a new proposal. We have seen bills similar to this one introduced over and over again to the legislature. In 2011, Secretary of State Charles Summers formed an Elections Commission to study "voter participation, the current system for registering voters and the conduct of elections in the State." (Resolves 2011, c.133.) The

Commission held a series of meetings across the state in 2012 and conducted extensive research including on the issue of voter ID and concluded in its report:

“The Commission, by a 4 to 1 vote, finds that the negative aspects of a Voter ID law outweigh its potential benefits and recommends that a Voter ID system not be pursued in Maine.”

Photographic identification would exacerbate logistical challenges

The logistics of such a practice would cause undue hardship at all levels of election administration but especially for the approximately 500 municipalities that will be on the front lines of implementation. The time for each voter to check in at the Incoming Voter List (IVL) and obtain a ballot would increase by the amount of time it would take for the voter to present the ID and the election official to look at it and confirm the voter's identity and address against the information on the voter list. Currently, without the requirement of a photo ID, the current process on average should only take about 1-2 minutes. Even a one-minute increase, multiplied by the number of voters in any given municipality, could result in extended wait times for voters, evidenced in the long lines that we see at polling locations all across America in states that have voter ID requirements. Longer wait times at the airport or at a liquor store because of a need to check ID may be an annoyance, but they do not infringe on anyone's fundamental civil rights as a requirement for a specific ID at the polls would.

Additionally, this new bill would likely cause municipalities to incur financial expenses. Although this bill does not have language to explicitly allow a voter without a photo ID to vote a provisional (i.e., challenged) ballot, the federal Help America Vote Act of 2002 (HAVA) requires that if an eligible voter is being denied the right to vote, they must be offered an opportunity to vote a challenged ballot rather than being turned away. The process for administering the challenged or provisional ballot would likely take several minutes, and towns would have to hire extra election officials to handle that process efficiently.

Moreover, implementing a voter ID requirement would create significant administrative tasks and costs for both the Elections Division and the Bureau of Motor Vehicles (BMV) within my department. The BMV would incur the cost of materials for producing the free Maine non-driver identification card for any registered voter or prospective registrant who does not have a photo ID. According to BMV data, there are potentially approximately 50,000 individuals of voting age who do not have a Maine driver license or state ID credential, and thus may require some other form of photographic identification if they wished to vote at the polls. Some of these residents may have a passport or federal photo ID, and some may not be eligible voters. There is no way to know how many do not have a photo ID and would need to obtain the free photo identification document described in this bill.

The cost to the BMV to produce a credential for eligible persons who do not have another form of acceptable photographic identification to verify identity for the purpose of voting is \$2.00, not including postage costs. Should 50,000 voters require a free ID, it would cost approximately \$275,000 to provide them these cards. These costs are only to cover the cost of the IDs themselves and for postage, and do not take into account the increased workload on the BMV main and branch offices to administer the application process and produce the non-driver ID cards. BMV branches have seen unprecedented levels of customers recently, as many Mainers are rushing to obtain a REAL ID-compliant credential ahead of the May 7, 2025 enforcement date. We do not anticipate the high customer levels abating soon and meeting an additional increased need imposed by this legislation would be challenging. There certainly could be a large number of voters trying to obtain the specific type of ID card required under this bill in the days or weeks prior to an election, which could overwhelm

our motor vehicles staff just as we're seeing now with REAL ID. Therefore, we would need additional dedicated staff in order to meet the need.

This bill seeks to solve a problem that does not exist

This bill would neither increase election security nor increase faith in our elections. Indeed, the bill could reduce faith in our elections by making participation more complicated and burdensome. Such a bill could also undermine faith in elections by increasing lines at the polls and headaches for voters.

In the 30 years that Deputy Secretary Julie Flynn has overseen the Elections Division, there has not been any evidence presented to the State of voter impersonation at the polls in order to influence the outcome of an election. When constituents raise questions about the integrity of our elections, we should respond with truth that our elections are free, fair and secure rather than validating those unfounded fears with bills like this one.

In January of 2012, Deputy Secretary Julie Flynn prepared a report to the Secretary of State on our efforts to investigate suspected dual voting during the 2008 and 2009 elections; the report was shared with this Committee in 2012. Of the initial 240 pairs/groups of suspected dual voting, 229 of them were determined through administrative review to reflect only apparent (not actual) dual voting as the result of human error by election officials. Of the remaining 11 cases referred to the Attorney General for investigation, only 2 resulted in prosecution after further investigation; while the other 9 cases reflected apparent (not actual) dual voting as the result of human error. Experience has shown that where there has been a suspected case of fraud, there have been safeguards in place from the municipal level going to the Attorney General's office so that these incidents would be identified and investigated promptly. Thus, we believe this bill presents a solution for which there is no documented problem.

The financial impact of a photo ID program would be severe

Based on the experience of other states that have implemented a voter ID requirement, Maine would also incur the costs of designing and implementing a voter education and outreach program to inform voters of the new law as well as how to obtain the free voter ID card if needed. The cost of promotional material, television and radio advertisements to ensure the public was made aware of this new requirement would cost about \$125,000.

States also have spent millions of dollars on litigation costs as voter ID laws have been challenged in the courts. In 2021, a federal court held the State of Texas responsible for \$6.8 million in legal fees and costs owed to a group of plaintiffs who sued over the state's 2011 voter ID law. Since court decisions have been based on the specific requirements in each state's laws and specific facts about their impact, it is hard to predict how this particular bill would fare if it were challenged. However, given that, per statute, our department is on the hook for legal costs and fees when faced with constitutional challenges, any judgment made against us would be financially detrimental.

Moreover, the provision for free IDs does not insulate this bill from legal challenges. Texas, North Carolina, and Wisconsin all provided for free IDs in their voter ID laws, and all three laws wound up being enjoined by lower courts, although in each case, those injunctions were ultimately dissolved by appellate courts. It would be a mistake to assume that because those states ultimately prevailed, Maine would as well. The fact that injunctions initially issued in all three cases shows that these are close legal questions that will turn at least in part in the evidence that plaintiffs can muster of a substantial burden on voting.

Voter restrictions will disenfranchise Mainers disproportionately

Finally, we should be proud of the work we have done in Maine to move us forward toward greater participation, consistently ranking in the top three nationally for voter turnout. Unfortunately, this bill proposes to restrict the types of ID to be used for purposes of voter registration and voting. Two years ago, Maine expanded the types of documentation used for proof of identity to register to vote to include student IDs issued by Maine schools and tribal IDs. The bill before you today does not include these types of IDs for purposes of voting and indeed explicitly excludes student IDs, which at best could be very confusing for voters and election administrators, and at worst could be discriminatory against these voters.

We know from experience in other states that requiring voters to show a particular type of ID at the polls when voting has a disproportionate impact on traditionally marginalized communities. Time and time again, the evidence shows that black, indigenous and people of color as well as seniors were turned away unnecessarily when they went to vote. We are concerned that this bill would have a discriminatory impact on people of color in our communities, seniors, those who are transient, our community members who are unhoused, people with disabilities, students, and poor people. Indeed the 2012 Elections Commission convened by Secretary Charles Summers made the same point in its report:

“Studies have shown that the requirement of a voter ID may deter 10 to 11% of eligible voters from voting. Because Maine has a disproportionate number of citizens who are elderly, poor and/or living in rural areas, the percentage of voters who would be discouraged from voting may be higher.”

To ensure our democracy is as representative as possible, we cannot enact practices that would shut out certain members of society. We should avoid any changes that make it harder to vote or that would move us backward. Implementing this bill would undermine the good, bipartisan work we have always done to protect Mainers voting rights.

Competing measure

Finally, L.D. 38 would be a competing measure to the citizen initiative that is now L.D. 1149. Section 2 of L.D. 1149 amends Title 21-A §671 sub-§1 in a slightly different way than L.D. 38 does. Both pieces of legislation also add additional text to that section of statute. In providing two different ways of amending the same section of statute, the bills conflict with each other. This means that if L.D. 38 were enacted, it would not go to the Governor as other bills do. It would go to the November ballot as an alternate “yes” option to L.D. 1149, as well as a “no” option. This would not be a ranked-choice election. Voters would only be able to choose one of those three options.

For these reasons, we oppose L.D. 38. Thank you and I would be happy to answer any questions that the committee may have.