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JOINT STANDING COMMITTEE ON VETERANS AND LEGAL AFFAIRS

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Testifying in opposition to

L.D. 1149 "An Act to Require an Individual to Present Photographic Identification for the Purpose of Voting"

Senator Hickman, Representative Supica and Members of the Joint Standing Committee on Veterans and Legal Affairs, my name is Shenna Bellows, I live in Manchester, and I am the Secretary of State. I am testifying in opposition to L.D. 1149.

As a bill brought before the legislature through the citizen's initiative process, L.D. 1149 is different from other bills that may be considered this legislative session, in that unless it is enacted exactly as written, it will go before the voters in the November Referendum Election. While other legislation may be amended by legislators to fix deficiencies in the drafting process or to remove or add different sections or language to create a better bill or come to consensus, no such option exists for this bill. Any version of this that passes as an amended version would be a competing measure.

The proposed measure has 28 sections. The title suggests that the bill only addresses photographic identification for the purposes of voting, but the content of the legislation contains numerous changes to absentee voting and election administration.

Sections 1 through 4 address photographic identification. Section 1 of the bill requires that, when a voter who is voting at the polls approaches the table to receive their ballot, they must present photographic identification to the election clerk, as well as state their name and residence address.

Section 2 of the bill creates a new challenge process for voters without photographic identification. It is important to note that the challenge process created in Section 2 is not congruent with the existing established challenge processes under Maine law.

Under the bill, voters who do not present photographic identification at the time they receive their ballot, whose signature on their absentee ballot envelope doesn't match the signature provided at the time of registration or who did not include a copy of their photographic identification with their absentee ballot would vote a challenged ballot.

Under current Maine law, challenged ballots are counted just as any other ballots are, and the voter's *eligibility* is adjudicated after Election Day. Under L.D. 1149, however, voters whose ballots were challenged due to this provision would need to present photographic identification before their votes could be counted and allows for the "curing" to happen up to four days after Election Day. Under the proposed bill, ballots cannot be counted until the voter has addressed the challenge.

This presents a few potential implementation issues for election administrators: Municipal clerks would need to keep ballots challenged under this provision separate from other challenged ballots, creating two types of challenged ballots. Presumably, the Elections Division would have to create special challenged ballot envelopes and provide them to the municipalities to use for individually securing each challenged ballot.

Of concern to election administrators is the conflict between this section of law and the existing requirements under Maine law that all ballots be counted immediately after the polls close on Election Day, and furthermore, that the municipal clerks need to report results to the Elections Division within two days of Election Day.

That raises multiple questions. Can challenged ballots be legally counted as required under this section if the count is required to happen on Election Night? What does this mean for the clerks' requirement to report results to the Secretary of State? Are there subsequent implications for certification? How are municipalities to conduct the counting? The bill is silent on whether municipal officials would need to assemble counting teams each time someone in the four days following Election Day comes to present photographic identification, or if that should be done daily or at the end of that time period. The section also does not contemplate what efforts the clerks must undertake in order to reach out to absentee voters whose eligibility to cast a ballot was challenged under this section. Election administrators are tasked with following the law, so the absence of resolution of these questions raises concerns about uniform implementation.

Section 3 of the bill requires the Secretary of State to provide free state identification cards. There is a cost associated, but we do not object to the principle of providing state identification cards, provided that the applicant meet the criteria for ID cards set forth in Title 29-A.

Section 4 of the bill defines "photographic identification" to include, among other things, a "driver's license," which includes a learner's permit and an "interim identification form." Those who are not familiar with Motor Vehicles statute or who have not recently held a learner's permit may not be aware that in Maine, learner's permits do not have photos on them, nor do temporary licenses. That raises the question about whether election officials must accept these items as photographic identification despite the absence of a photograph.

Section 5 of the bill removes the prohibition of communication between the voter and any other individual as to the person or question for which the voter is to vote as a grounds for challenge. We believe prohibited conduct should be grounds for challenging a ballot.

Section 6, 7, 8, 9 and 10 amend the grounds for challenge to add three means for a challenge to include failure to provide photographic identification, submission of an absentee ballot with a signature that does not correspond with the person's registration signature, and submission of an absentee ballot without the identification required.

Section 11 limits return of an absentee ballot via a drop box to the voter and not a voter's immediate family member. Longstanding practice in Maine is that an immediate family member may return the

voter's ballot in a sealed envelope, and we are concerned that there may be voters who have limited mobility and cannot return a ballot to a drop box themselves.

Section 12 limits drop boxes to one drop box per municipality. Under current Maine law, municipalities may apply to have additional absentee ballot drop boxes, other than one outside the municipal office or the building where in-person absentee voting takes place ahead of Election Day. In Portland, for example, there is a second absentee ballot drop box off-peninsula so that voters may deposit their absentee ballots conveniently there, rather than adding to vehicle and pedestrian traffic in downtown outside City Hall.

Sections 13, 14 and 15 of the bill would require that partisan individuals rather than a trusted municipal clerk or their designee retrieve the ballots during the absentee voting period. It is important to note that ballot retrieval must happen frequently during the period of no-excuse absentee voting starting 30 days prior to Election Day. It is already challenging for clerks to recruit poll workers from both major political parties for the duties associated with processing absentee ballots and administering the voting place on Election Day. We are concerned about the practicality of engaging political volunteers for ballot retrieval on a regular basis as well as the optics of partisan involvement in the chain of custody of the ballots. Additionally, while the bill requires a "bipartisan team of election officials," it does not specify which two parties they must be from and seems to exclude unenrolled voters from serving in this function.

Section 16 of the bill repeals Title 21-A, §753-A, subsection 3, Procedure for requesting an absentee ballot, in its entirety and replaces the procedure for requesting an absentee ballot application with new procedures. Of note, this section repeals the ability of an immediate family member to make a request on the voter's behalf.

There are new requirements for proof of identification for absentee ballots that appear to be duplicative. On page 5 of the proposed bill, lines 11-15 require the absentee ballot application to include a place where the voter provides either the Maine driver's license/nondriver identification card number or a copy of the voter's photographic identification. On page 6, lines 32 to 36, the bill states that if the application does not include all of the required information, then the clerk must contact the voter and obtain the information, while on lines 37 to 43 the bill states that an absentee ballot will only be issued if the application has all the required information. Thus, the absentee voter does not have the opportunity to provide the proof of identification with the voted ballot, as is suggested on page 7 lines 19 to 24, or vote a challenged ballot that may be cured within 4 days after the election as is provided on page 2 lines 6 to 10. These inconsistencies also imply that an absentee voter must provide the Maine ID number or a copy of their photographic identification 2 times – both with the absentee ballot application and in the Identification Envelope which must be returned by each absentee voter in another envelope along with the voted ballot.

From an election administration perspective, under current law, absentee ballot applications are only available in the 3 months before a specific election and include the date and title of the election on the form. Conversely, on the bottom of page 5 and top of page 6, the new absentee ballot application seems to allow a voter to request a ballot for the June primary and November general elections as early as January 1st of that year resulting in a significant new administrative tracking burden. We believe it is more efficient to confine absentee ballot requests to the three-month period prior to each election.

L.D. 1149 also cuts off submission of absentee ballot applications at the close of business seven days before Election Day. The current cutoff date for absentee ballot applications is close of business five days before Election Day. The final two days of absentee voting are particularly popular in Maine. In the November 2024 General Election, almost 43,000 absentee ballot requests were made in this period – more than 11% of the absentee ballot requests received over the entire absentee voting period. Eliminating these two days of absentee voting would be confusing and potentially disenfranchising for voters.

Section 17 of the bill would eliminate the ability to request an absentee ballot by telephone. For Mainers who have difficulty getting out of the house or who do not have the technology, internet access, or skills required to request an absentee ballot online, the option to request an absentee ballot by phone is vital. In the November 2024 General Election, more than 16,000 absentee ballot requests were made by telephone – more than 4% of the absentee ballot requests received that election. Eliminating this method could be devastating for these voters and their ability to cast a ballot.

Section 18 of the bill imposes the same new requirements for the online absentee ballot request application as the written one. This would require coding and other technical work to allow for images and other files to be submitted with the other information required for an online ballot request. Printing additional identity documentation would be a cost to municipalities' ink and paper budgets, and storage needs may change if applications have additional pages.

Section 19 of the bill eliminates the ability for seniors and voters with disabilities to receive their ballots automatically each election once they have signed up for ongoing absentee voter status. Ongoing absentee voter status means that these voters do not need to spend their time applying for an absentee ballot each election. Removing this program from law will only waste voters' time.

Section 20 of the bill removes the statute regarding issuance of absentee ballots and replaces it with a new system with extra envelopes. The envelope used to mail ballots and return envelopes to voters would also contain an "identification envelope." This means that the initial outer envelope as well as the return envelope would need to be larger to accommodate the return of the ballot, identification envelope, and potentially another copy (separate from the copy already provided with the absentee ballot application) of the voter's photographic identification. This will substantially increase envelope printing costs for the state Division of Elections, which provides envelopes to all the municipalities, as a third, larger envelope will need to be procured for the initial ballot and envelope delivery to voters. Postage costs for these larger, thicker envelopes being initially sent would rise for municipalities.

Section 20 of the bill also bans municipalities from prepaying return postage for an absentee ballot.

Section 21 of the bill repeals the existing procedures by which immediate family members may request and retrieve absentee ballots for the voter. Under the bill, an immediate family member may not request an absentee ballot from the municipality on the voter's behalf, although it still allows an immediate family member to return the voted ballot to the clerk. In the November 2024 General Election, 25,792 of the requested absentee ballots were issued to immediate family members – almost 7% of the requested absentee ballots that election. For a voter with mobility issues, or a busy voter with children, a job, and responsibilities to care for an aging parent, the flexibility to ask a husband,

wife, or other immediate family member to pick up their absentee ballot for them can be an important provision in law.

Section 22 of the bill governs the receipt and return of the absentee ballot. One confusing aspect of this section is the assumption that there are multiple clerks' offices. Perhaps this section was imported from a state that administers elections at the county level.

Although the bill still allows a voter to designate an unrelated third person to obtain and deliver the ballot to the voter, and return the voted ballot to the clerk, it repeals the witnessing provisions that currently protect the voter who is entrusting the ballot handling to someone who is not the clerk or an immediate family member.

This section oddly mentions that voters, once they vote the ballot, are to fold the ballot such that the "stub" on it is visible. While a few other states' ballots have stubs, Maine's do not. The printing vendor for King County, WA, for example uses them for voters' ballot tracking, but they cannot go through ballot tabulators. This would mean that Maine would have to procure a new tabulation system that allows for ballots to include ballot stubs. However, if such a system could not be procured, election officials would need to handle those ballots to remove the stubs during absentee ballot processing, which would be time consuming and costly.

Section 23 of the bill repeals provisions of current election law governing absentee ballot delivery or return by a third person.

Section 24 of the bill adds duplicative and confusing language regarding the deadline to return absentee ballots. Maine law, in Title 21-A section 755 already requires that, in order to be counted, an absentee ballot must be delivered to the municipal clerk by the time polls are closed. L.D. 1149 states that "All envelopes containing marked absentee ballots must be delivered to the clerk not later than the close of the polls on the day of an election." Postal workers here in Maine move heaven and earth to get all absentee ballots back on time, but would they be breaking the law if a ballot mailed last minute was not identified as such in time?

Sections 25 and 26 of the bill changes the citation to link back to Section 22 of the bill.

Section 27 of the bill requires that a copy of photographic identification or a driver license number be included with the absentee ballot.

Section 28 includes an implementation date of January 1, 2026. We note that the coding requirements for the central voter registration system contained by these changes will make implementation on that timeline both challenging and costly. Because this bill is before the legislature through the citizen initiative process, no funds would be appropriated to complete any of this work. The Division of Elections and the municipalities would not have the funds or the time required to implement this law.

Thank you for the opportunity to provide this information and I would be happy to answer any questions that the committee may have.