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JOINT STANDING COMMITTEE ON VETERANS AND LEGAL AFFAIRS

Testimony of Shenna Bellows, Secretary of State and

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Department of the Secretary of State

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Testifying In Support

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

Senator Hickman, Representative Supica and Members of the Joint Standing Committee on Veterans and Legal Affairs, my name is Julie Flynn, I reside in Windham, and I am the Deputy Secretary of State for the Bureau of Corporations, Elections and Commissions. I am speaking today in support of L.D. 1977, our department bill.

The main idea behind the department bill this year is to make necessary adjustments to state election laws that were identified during the last election cycle, to make election law more easily understandable to lay people, and to clean up some language.

Following is a section-by-section explanation of the changes requested in this bill.

Section 1 amends the definition of the "closed period" before each election to include registering to vote at the Bureau of Motor Vehicles (BMV) using the automatic voter registration process up to one week before the election. This change also makes the definition align with §121-A of the law.

Section 2 provides that the digital cast vote record created by an electronic tabulating system is confidential, except when the Secretary of State completes the tabulation of a race determined by ranked-choice voting, the digital cast vote record for that race becomes public. The digital cast vote record is a representation of the votes marked for each office or question on all the ballots that were scanned and counted by a tabulator.

Section 3 removes paragraphs 1 and 2 of current §121, sub-§1-A and moves them to a reorganized §121-A of the law (addressed in section 4 of the bill).

With this change, §121, sub-§1-A will only address the requirement for a voter who registers in person during the closed period to show satisfactory proof of identity and residency to the registrar of voters or vote a challenged ballot. This language is nearly identical to existing language found in the 3rd paragraph of §121, sub-§1-A.

Section 4 creates a consolidated and reorganized §121-A to address in one place:

- the deadlines for registering to vote before an election by different means (e.g., by mail, by 3rd person, via the online voter registration portal, or through automatic voter registration at the BMV),
- the deadlines for outside voter registration agencies and the Secretary of State to transfer voter registrations to the municipal registrars by the closed period, and
- the deadlines for the registrars to send a notice of disposition to each voter whose registration was processed before the closed period. (The notice of disposition is also known as an acknowledgement notice under the National Voter Registration Act of 1993 or NVRA.)

This section also changes the deadline for online voter registrations from midnight to 5 p.m. on the 21st day before Election Day. This specific change is to ensure that technical assistance is available to help voters who are trying to register online just before the deadline.

This reorganization of existing law also includes nonsubstantive revisions that improve clarity and readability, which in turn will make it easier for election officials, campaigns and the public to find and understand these important provisions regarding voter registration.

Sections 5, 6, 7, 38, 39, 41, 54, 55 and 56 replace the outdated term “polling places” with “voting places”, which is the term defined in the election laws.

Sections 8 and 9 specify that if the 15th day before a primary election is a holiday, and the registrar receives a change of party enrollment (**Section 8**) or a request to withdraw from a party (**Section 9**) on the next business day after the holiday, then the registrar must deem the change of enrollment or withdrawal to have been received on the 15th day.

Because the Memorial Day holiday occurs on the 15th day before the June State Primary election and President’s Day occurs on the 15th day before the March Presidential Primary election, under current law voters must submit applications to change or withdraw from a party more than 15 days before the election to be effective. This amendment takes care of that issue without requiring a change in logic to the central voter registration system.

Sections 10, 11 and 12 make necessary improvements to the Secretary of State’s obligation to designate agencies that must offer voter registration to their clients under federal law (the NVRA). The original designations were made in 1993 and have not been updated to reflect changes in agency names or programs that have been added to an agency or moved from one agency to another. **Section 12** grants the Secretary of State the authority to provisionally designate additional state agencies and offices as voter registration agencies if they provide public assistance or provide state-funded programs primarily engaged in providing services to people with disabilities and then submit legislation to the next session of the Legislature so that these provisional designations can be added to the law.

Sections 13 and 14 repeal and replace the provisions governing the purchase and use of data from the central voter registration system (CVR) to “evaluate, monitor or seek compliance with laws relating to voting rights, election administration and voter registration”. These changes clarify what data is available to requestors as well as what data is designated as “highly sensitive personal information” which **may not** be provided in a voter file purchased under this section. These amendments are

intended to conform the provisions of §196-A of Maine law to the NVRA as recently interpreted by the federal courts.

Sections 15 and 16 repeal and replace the provisions designating the violations that may result from misuse of data from the CVR as well as the penalties that may be adjudged for the first and subsequent violations. These changes are intended to maintain and enhance existing protections on personal data, to the extent permitted by the NVRA.

Section 17 adds email addresses to the information that must be provided by voters who file a *Declaration of Intent to Form a Party* with the Secretary of State between December 1st and December 30th of an even-numbered year.

Section 18 enacts provisions for treatment of qualifying and qualified parties that fail to attain or that lose qualified status. When a qualifying party is unsuccessful in reaching qualified status, the Secretary of State is permitted to immediately disenroll voters from the unsuccessful party. Conversely, when a qualified party becomes disqualified, their voters would not immediately be disenrolled from the party. Instead, the party would give notice to the Secretary of State that they intend to requalify and then would have a full election cycle (2 years) to try to enroll more voters and regain their qualified status. The Secretary of State would provide the party with a file containing information on voters enrolled in the party. These changes are intended to address the US District Court's ruling in *Baines v. Bellows*, which held that our existing law requiring immediate disenrollment of a disqualified party's voters was unconstitutional as applied to the plaintiffs in that case.

Sections 19 and 60 address a gap in Maine's party formation law. Currently, a party that becomes qualified has no mechanism to voluntarily terminate or relinquish its party status. This gap came to light in June of 2024 when we received an email with a letter from the No Labels Party requesting to terminate or withdraw as a political party in Maine. **Section 19** provides a process for a party to notify the Secretary of State via a letter signed by the state chair of the party. Within 30 days of receipt of the notice, we would change the party designation for the affected voters to unenrolled and remove the party designation from the voter registration applications printed in the future. **Section 60** provides unallocated language to make this provision effective retroactively to January 1, 2024.

Section 20 adopts another party-related change in response to the *Baines* decision, which found that the laws limiting who can sign party primary petitions **only** to voters enrolled in that party violated the constitutional rights of one of Maine's minor parties, the Libertarian Party of Maine. This amendment allows any qualified party to file a notice with the Secretary of State by December 31st of the year before the state primary (or by October 1st before a presidential primary) electing to allow unenrolled voters to sign nominating petitions for all primary elections held in that year following the election.

Section 21 addresses a gap in the law governing the deadline for filing primary candidate petitions with the Secretary of State. Unlike with nonparty nominating petitions, the law for primary petitions does not establish an earlier date for submitting petitions to the municipalities to ensure they are certified before they must be filed with the Secretary of State. This change provides that a municipality must make a municipal official available to certify primary candidate petitions on the date of the deadline for filing with the Secretary of State to allow candidates to meet their filing deadline.

Sections 22 (primary candidates) and 25 (nonparty candidates) provide that the Secretary of State may not accept a candidate consent form unless it contains or is accompanied by the registrar's certification of candidate enrollment. Although we provide a combined form that includes the

candidate consent and registrar's certificate of enrollment for convenience to candidates, it is allowable for the candidate to complete these two requirements on separate forms. This amendment is to make it clear, however, that a candidate's filing is not complete unless both these required certifications are submitted by the deadline along with the minimum number of certified signatures of voters on the candidate petitions.

Sections 23 (primary candidates) and 26 (nonparty candidates) clarify that the Secretary of State must accept petitions containing more than the maximum permitted number of valid signatures, but we may not validate any signatures submitted above the maximum number. In a challenge to a nonparty candidate petition in 2024, the challenger asserted that submitting more than the maximum number of signatures should disqualify the entire petition. The Secretary of State's challenge decision, which was not appealed, stated that submitting too many signatures should not invalidate the petition. We are amending the law to clarify this in statute.

Sections 24 (primary petition challenges) and 27 (nonparty petition challenges) provide for direct appeals to the Law Court from a decision by the Secretary of State to validate or invalidate a candidate's petition after a challenge hearing. This language is based on the statute regarding appeals from Public Utilities Commission decisions and is intended to eliminate the intermediate appeal stage in these highly expedited proceedings, thereby allowing more efficient resolution in the compressed time frame before ballots must be prepared for the election.

Sections 28 and 29 address a gap in the vacancy provisions for presidential elections, by enacting a new provision allowing for substitution of party-nominated presidential electors if a nominated elector dies, withdraws or becomes disqualified before the election.

Section 30 brings Maine into compliance with federal law by creating an exception to nominating candidates by primary election to fill a vacancy in the office of Representative to Congress, in the extraordinary circumstance where there are more than 100 vacancies in the US House of Representatives and the US Speaker of the House of Representatives invokes a federal law requiring expedited election procedures to fill the vacancies.

Section 31 sets a deadline of 70 days prior to the election for a candidate to notify the Secretary of State that they wish to have their name appear differently than it does on their candidate's consent form. This deadline gives the Secretary of State time to review the information that the candidate submits documenting a legal name change or use of the name consistently during the past 2 years in filings with governmental agencies and transacting public business; as well as time to update the ballot creation database before ballots must be prepared for printing.

Section 32 specifically authorizes the Secretary of State to prepare neutral instructional materials and posters necessary to assist voters in addition to the specific instructional materials already required by law. In 2024, when voters were deciding on whether to adopt a new state flag, the Secretary determined it necessary to create a poster that showed the current flag design as well as the one that would be adopted if the voters were to approve the ballot question. Although the AG's Office advised that current law did not prohibit the creation of additional informational postings, we believe that having this express authority is warranted.

Sections 33 through 35 repeal the requirement for the Secretary of State to produce and disseminate a guide to election law and conduct a training program for new municipal clerks. This requirement is duplicative of the requirement for the Secretary of State to provide training to all clerks and registrars under §505 of the law. We have a well-established training program for municipal clerks and

registrars and create or update instructional materials and provide them to each municipality prior to each election. In terms of voter information, the Secretary of State's publicly accessible website has extensive information about registering to vote and voting that is available to all voters to review. The second provision being repealed is for the Secretary of State to collect and log "concerns from members of the public, regarding the conduct of the elections." We receive thousands of calls and emails from members of the public, parties, campaigns and municipal officials with questions or concerns about elections. Since the 2020 elections, many of these are from people who are not Maine residents but want to talk to us about what we should do differently in Maine. We answer the questions over which we have jurisdiction (i.e., state not local elections) and refer people elsewhere where appropriate. We don't feel that creating and maintaining a special log of the myriad calls and emails is a good use of scarce resources and thus we are asking to eliminate the requirement.

Section 36 changes the requirement for posting a notice of election from posting in at least one conspicuous public place in each voting district to posting in at least one public place in the municipality and increases the time that the posting must be available from 7 days to 21 days before the election. The current requirement to post a notice in each voting district only applies to about a dozen municipalities that have more than one ward-precinct used for statewide elections. In these municipalities, the buildings used as a voting place often are not controlled by the municipality, so getting access to these facilities to post a notice is difficult, and if the notice is posted inside a building there is no way to know whether the notices remain posted. We think that posting in one or more locations in the municipality, but posting 3 weeks ahead of the election, will provide better notice than currently.

Section 37 changes the deadline for a party to make a complaint to the Secretary of State regarding a voting place that is too small to meet the minimum requirements for an election, from 60 to 90 days before an election. This additional time before an election is necessary for us to determine whether the voting place is unsuitable and to determine whether there is a more suitable voting place available.

Sections 40 through 44 of the bill move several provisions from different sections of the law into a new consolidated section of law (§683) regarding regulated activities at the voting place. **Section 40** repeals §662, sub-§4 regarding the Warden's duties, but moves the language to the new §683 to address signature gathering. **Section 42** removes the language regarding video recording of voters and interfering with the free passage of voters from §681, sub-§4, which otherwise specifies who is allowed outside the guardrail enclosure and moves the removed language to the new §683 (sub-§§ 5 and 7 respectively). **Section 43** removes the language regarding charitable activities from §682, sub-§3(B) and moves it to the new §683. **Section 43** also amends the remaining language in §682, sub-§3(B) that bans political advertising at the voting place to clarify that the ban includes apparel. Although we interpret current law to bar apparel containing political advertising, we believe clarification of the statute is warranted given the number of questions we receive on this issue from municipal clerks and others. **Section 44** presents the new consolidated §683 that addresses regulated activities at the voting place, including pollwatching, signature gathering, charitable activities, party workers and observers, photography and video recording, and interfering with the free passage of voters, all of which were moved from other sections of the law. The new provision in sub-§6 makes it clear that only municipal officials can distribute or collect voter registration applications at the voting place or within 250 of the voting place on election day. This additional provision is necessary to address the rise in campaigns and parties that want to do their own voter registration drives on Election Day. We believe it is confusing and misleading for parties to try to intercept voters immediately outside the municipal office or voting place who are on their way in to register to vote with the registrar.

Section 45 codifies into law the longstanding practice of the Elections Division, by specifying that write-in candidates for the office of President must file a consent form for each of the 4 electors for that Presidential slate.

Section 46 changes the deadline for absentee ballot applications to be made available before a primary election from 3 months to 2 months before the election. This change is needed so that the application will contain only the parties that are participating in the primary, so the unenrolled voters can choose which ballot to receive. Applications for referenda or general elections still will be available starting 3 months before those elections.

Section 47 is primarily a technical fix to bring the election law back into sync with amendments enacted in the last Legislature changing the definitions of certain licensed facilities where the municipal clerk must conduct absentee voting during the 30 days before each election. We also are adding “state mental health institutes” as covered facilities to conform to past practice.

Section 48 amends the law governing inspection of absentee envelopes at the voting place on Election Day to provide that if there are multiple requests for inspection, the warden may reasonably limit the time and manner of inspection by members of the public and give priority to requests made by authorized representatives of candidates and qualified parties. **Section 49** makes a similar change to the law governing inspection of absentee envelopes that are in the municipal clerk’s presence and allows the clerk to make the same reasonable limitations on the number of inspectors. These changes are needed to ensure that inspection of absentee ballot lists and envelopes proceeds in an orderly and secure manner and does not require municipal officials to allow more inspectors than the municipal clerk or warden can accommodate based on the number of staff available to oversee the inspection.

Sections 50 to 53 make changes to the provisions governing the electoral college to conform to the federal Electoral Count Reform Act, including the deadline by which the Governor must issue the certificate of ascertainment of appointment of electors, the date of the meeting of electors and the addition of a security feature to the certificate of ascertainment of the appointment of the electors.

Section 57 eliminates an outdated requirement for municipalities that use electronic tabulating devices to have secrecy envelopes available to the voters. Electronic tabulating devices have been in use in Maine since the early-to-mid 1980s and well over 90% of the voters vote in municipalities that use tabulating devices to tabulate their ballots.

Section 58 reorganizes the section of law governing the closing of the polls in municipalities that use tabulating devices to tabulate their ballots and removes duplicative language regarding how to hand count ballots that can’t be read by the tabulators; instead referring to the section of law governing hand counting.

Section 59 provides that test ballots used to test electronic tabulating equipment must be designated with the word “TEST” in red indelible ink, so it is clear that these ballots were not cast by voters in the election.

Thank you for the opportunity to testify in support of L.D. 1977 and I would be happy to answer any questions that the committee may have.