



TO: The Honorable Louis Luchini
The Honorable Chris Caiazzo, Co-Chairs
Members of the Joint Standing Committee on Veterans and Legal Affairs

DATE: April 7, 2021

RE: LD 941 - An Act To Protect the Privacy of Absentee Voters

My name is Debra McDonough and I am a resident of Scarborough. I'm here today, as a volunteer with the League of Women Voters of Maine, to oppose LD 941.

The League of Women Voters is a nonpartisan political organization that encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy. For 100 years, Leagues here in Maine and across the country have worked to educate and register voters, eliminate obstacles to voting, and make government at all levels more accessible and responsive to citizens. The League supports full voter participation by all eligible American citizens, and we oppose efforts to create new barriers that block citizens' constitutional right to vote. At the same time, the League believes that elections should be secure, accurate, recountable, accessible, and transparent.

The League of Women Voters advocates for measures to protect every citizen in their right to vote. The secret ballot, widely adopted in the US at the end of the 19th Century, was a major advance in protecting voters from intimidation, blackmail, retribution, and vote buying. Secrecy and privacy in casting one's ballot are essential to integrity in the electoral process, whether the ballot is submitted in person on Election Day or through the absentee balloting system. Given that absentee ballots are submitted in an envelope bearing the voter's name and address, election officials must ensure that privacy is protected while the ballot is in transit and during the process of removing the voted ballot from the envelope.

We agree that the details of a voted ballot should never be visible through a sealed absentee ballot envelope. In our experience, the envelopes in use by the State of Maine have been sufficiently opaque that we do not find that an additional privacy sleeve is necessary to protect

the privacy of the ballot in transit. Given that current state statute says only that “the Secretary of State shall design or approve the form of the absentee ballot envelope,” (21-A MRS §752), we could support codifying a requirement for envelopes of sufficient weight to protect voter privacy.

The National Council of State Legislators describes a privacy sleeve as “a paper document intended to protect voters’ privacy by separating their identity and signature from their ballot” and identifies sixteen states that require election officials to supply one with each absentee ballot.¹ (Four of those states require the use of the sleeve when returning a ballot,² a provision that we would not support.) Other states, including Maine, have instead designed envelope processing protocols to limit the degree to which an election worker has an opportunity to see the voted ballot and the voter’s name at the same time.

While the use of a privacy sleeve may provide an additional layer of protection, it would also add an additional step to the absentee ballot processing procedure — which would in turn require additional time or staffing in each municipality. We would instead encourage the Secretary of State to review the current procedure and make any necessary changes to ensure the privacy of citizens who choose to vote absentee. We also recommend citizen oversight of compliance with election procedures and have included such a provision in LD 1155 - An Act To Require Election Transparency and Audits, which this committee heard on April 5.

In short, we find that concerns about absentee voter privacy can be addressed without the addition of a privacy sleeve and urge you to vote ought not to pass on LD 941.

1

<https://www.ncsl.org/research/elections-and-campaigns/vopp-table-13-states-that-are-required-to-provide-secrecy-sleeves-for-absentee-mail-ballots.aspx>, accessed April 1, 2021.

² www.lawfareblog.com/secrecy-sleeves-and-naked-ballot, accessed April 1, 2021.