Department of the Secretary of State

Bureau of Corporations, Elections and Commissions

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JOINT STANDING COMMITTEE ON VETERANS AND LEGAL AFFAIRS

Testimony Neither for Nor Against
LD 231 "An Act To Establish Open Primaries"

April 12, 2021

Senator Luchini, Representative Caiazzo and Members of the Joint Standing Committee on Veterans and Legal Affairs, I am Shenna Bellows, Maine Secretary of State and I'm here to offer testimony neither for nor against LD 231, "An Act To Establish Open Primaries," which would allow unenrolled voters to vote in primary elections, including presidential primary elections, without having to enroll in a political party and LD 303, "An Act to Establish Open Primaries," which would allow unenrolled voters to vote in primary elections.

We understand the good reasons to move forward with this policy, and we stand ready to implement it should either of these bills pass into law. We have shared suggestions around implementation with the sponsors and are happy to work with the committee and the sponsors to ensure that the changes will work with our technology and processes should you decide to move forward.

Under current law, only voters enrolled in a political party may participate in that party's primary election. A voter who is unenrolled can enroll in a party at any time, including at the polls on Election Day, to be eligible to participate in the primary election. Once enrolled in the party, the voter must remain in the party for at least 3 months before the voter can file an application to withdraw or change enrollment. A voter who is already enrolled in a party must file an application to change enrollment at least 15 days before the election in order to vote in the new party's primary election. These bills would not change this restriction.

Under these bills, an unenrolled voter could participate in a primary by informing the election officials at the polling place (or the Municipal Clerk, if voting by absentee ballot) that they want to vote in a primary election for one of the qualified parties. The Secretary of State would be required to establish procedures to ensure that each unenrolled voter would be allowed to participate in only one party's primary.

The bills do not provide specific procedures regarding how a voter would declare an intent to participate in a primary election – though we have suggested potential amendment language and would be happy to work with the sponsors and the members of this committee on any amendment being considered. We have discussed certain processes internally that will be needed to implement the law

efficiently. We suggest that a voter would submit a signed form indicating the party primary in which they want to participate and the election clerk would hand-annotate at the point of checking off the voter's name on the incoming voting list with the party name or code. Having a written record of the party choice of each unenrolled voter will be imperative for accurately recording Voter Participation History after the election as well as determining the correct number of ballot cast in each primary in the event there is a recount or disputed election. The written record would not be used to update the voter's registration record since the voter is not enrolling in a party. However, this could be used to check that voter participation history is accurately recorded for all voters.

We anticipate there will be some additional costs to the Department if this law is enacted. First, we believe these bills will require us to print more ballots for each party. Prior to each election, the Division reviews the number of voters enrolled in each party and provides ballots equal to a certain percentage of each party's enrollment (generally 50%). That percentage provides a sufficient number of ballots even for voters who enroll on or close to Election Day.

We think these bills would have a positive impact on the number of unenrolled voters choosing to participate in primaries. Therefore, we will need to increase the number of ballots. There are approximately 362,000 unenrolled voters currently. If 30% of these voters chose to participate in either party's primary election, we would need to print 108,000 ballots more per party or a total of approximately 216,000 ballots. At the current cost of $.50 per primary ballot, we estimate this would be an increase of $108,000 for ballot printing, plus an estimated $10,000 to $15,000 for delivery costs. And for presidential primaries, in March 2020, the per ballot cost was $0.31. So printing 216,000 ballots (108,000 per party) for the presidential primary would cost $66,960 plus $8,000 to $10,000 in additional delivery costs.

Additionally, we will need to make changes to the processes for capturing Voter Participation History after the primary election. Currently, Municipal Clerks are required to scan the Incoming Voting List with a hand-scanner or manually enter the voter's unique voter record number. As long as the voter's party enrollment is correctly entered in the Central Voter Registration system (CVR), the voter's party affiliation will be included in the Voter Participation report. Under these bills, an unenrolled voter who chose to participate in a primary without enrolling in the party would not have an enrollment entered in the CVR. We will need to change the current programming of CVR in order to be able to capture the primary in which the voter chose to participate. Although the voter's enrollment status would not be updated in the CVR (since the voter is not actually enrolling in the party), we will need to capture this information so we can maintain accurate voter participation history for recount and historical purposes. Additionally, we anticipate that the political parties will have an interest in knowing which voters participated in their primary election. In 2018, our CVR vendor estimated this coding change would cost approximately $10,000 – if the Legislature were to delay implementation of this policy until 2024, we might be able to include this change in the customization phase of implementation in 2023.

I would be happy to answer any questions of the Committee, either now or at the work session.