



LEAGUE OF WOMEN VOTERS OF MAINE

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Good afternoon. My name is Ann Luther. I am a resident of Trenton. I am here today as a volunteer board member of the League of Women Voters of Maine. Thank you for the opportunity to comment on topics that the League believes would improve aspects of voting in the State of Maine.

For nearly 100 years, League chapters 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.

Over the last several years, the League of Women Voters has worked on several pertinent issues that may be of interest to the Commission:

- Photo ID
- Student Voting and Residency Verification
- Election Integrity
- Automatic Voter Registration
- Incarcerated Citizens
- Same-day Registration

In addition, we have supported measures for true Early Voting and for Ranked Choice Voting. We are in the middle of an examination of primary election systems to ascertain whether civic engagement would be improved by adopting any changes to our closed primary system – where only those enrolled in a party may participate in that party's primary.

I will not attempt to cover that entire landscape here this afternoon, but let me focus on those aspects of the League's portfolio that have the most direct impact on voter participation and engagement.

Photo ID

Every legislative session since 2011 has seen the introduction of virtually the same boilerplate legislation requiring a strict photo ID to vote in Maine. So far, no photo ID bill has passed. Such a bill was defeated in the first session of the current legislature, in defiance of which the governor re-introduced virtually the same bill in the second session.

I won't use my time this afternoon to review the reasons why the League opposes requiring a strict photo ID to vote. The short answer is that it suppresses turnout of eligible voters while contributing virtually nothing to election integrity. (A synopsis of our public testimony is included as an attachment.)

Despite the fact that we have so far avoided enactment of a photo ID law in Maine, we may nonetheless have felt its effects. The repeated re-introduction of photo ID legislation feeds unwarranted concerns about voter fraud. More important, it may create the impression in some quarters that we actually do have such a law, or that we will or should have one, thus driving down voter participation.

Anecdotally, we hear reports that some town officials are asking for photo ID from registered voters, either mis-informed themselves about whether we have such a law or misguided in the application of their considerable authority to act as though we do.

In the wake of the 2016 election, research in Wisconsin¹ indicated that their photo ID law kept more than 11% of voters in Milwaukee and Dane Counties from voting in the presidential election. Remarkably, "most of the people who said they did not vote because they lacked ID actually possessed a qualifying form of ID." Are we creating similar voter confusion in Maine? If so, it might disproportionately affect people in poor and minority populations.

Student Voting and Residency Verification

Maine has among the most inclusive voting laws in the country, making Maine one of the most truly democratic states in the nation. We should continue to encourage young voters to be involved in the democratic process. When young people vote, they establish a lifelong voting habit that pays off for our democracy with higher voter turnout in the years ahead. This is a matter of civic well-being for our state and for our nation, whether these young people remain in Maine or not – and of course we hope they will.

Under current Maine law, students have the right to register in the municipality where they attend school if they have established residency there. Students must meet the same residency

¹ Voter ID Study, Elections Research Center at the University of Wisconsin-Madison, <https://elections.wisc.edu/voter-id-study/> accessed March 19, 2018.

requirements as all other potential voters but may not be asked to meet any additional requirements.

Legislation has been repeatedly proposed in Maine that would establish a higher proof-of-residency standard for students residing in campus housing. Treating some college students differently than others based on a purely practical choice of housing accommodations would seem to be a violation of their Constitutional right to equal protection under the law. For example, if an eligible student lived in a college dorm, she would have to meet the higher residency test. If the same student lived in a private apartment or off-campus home, she would be allowed to register under the same test as any other Maine resident. Such disparate treatment does not pass even a minimal definition of equal protection, but that hasn't stopped bills like this from garnering a surprising number of votes, though not yet enough to be enacted.

Maine should not diminish these established rights. The proposal that students should face additional voter registration barriers just because they live in college housing is inconsistent with the basic democratic principles of allowing all citizens to exercise the right to vote. It may also open the door to other forms of threat and intimidating messages to these or other voters.

Government actions and deliberate misinformation may be causing confusion on the part of prospective student voters, leading to voter suppression. This is exactly the wrong direction; we should be encouraging all eligible voters to participate and making special efforts to ensure that they face no unreasonable barriers.

In 2011, the then-Secretary of State sent a letter to over 200 out-of-state students that contained a veiled threat of prosecution under motor vehicle law if the students did not voluntarily revoke their voter registration.² We believed that the Secretary of State violated the Voting Rights Act and the Fourteenth Amendment to the Constitution when he issued his letter, and we were pleased that he refrained from further action toward the students in question when this was brought to his attention.

Just a few weeks ago, the new Mayor of Lewiston sent another letter to everyone who used same-day registration to vote in the recent, hotly-contested mayoral election.³ This would have included a disproportionate number of young people and student voters in a college town. We applaud Secretary of State Matthew Dunlap for swift action to counter the effect of the letter. Although it contained no veiled threats and no inaccuracies, it nonetheless carried the implicit message that those using same-day registration – mostly students -- are under heightened scrutiny. There are many other demographic groups who could be singled out for such a letter,

² "State to students: register your car in Maine or don't vote here," Lindsay Tice reporting for the Sun Journal, October 4, 2011, <https://bangordailynews.com/2011/10/04/politics/state-to-students-register-your-car-in-maine-or-dont-vote-here/> accessed March 19, 2018.

³ "Letter to new Lewiston voters stirs controversy," Andrew Rice reporting for the Sun Journal March 7, 2018, http://www.sunjournal.com/letter-to-new-lewiston-voters-stirs-controversy/?mc_cid=12de3d746d&mc_eid=cfc4ef8560, accessed March 19, 2018.

and the special treatment of these Mainers begs the question of whether there was an impermissible motive for targeting them to receive such a warning.

During the 2016 election, there were reports of leaflets left on student vehicles claiming that students were required to present updated driver's licenses and vehicle registrations in Lewiston prior to voting. Other past misinformation campaigns have claimed that out-of-state students who vote in Maine are compromising their financial aid. All untrue.

The continued focus on this issue serves to confuse and intimidate students and suppress student voting.

To reiterate, we believe that it is our duty, as the custodians of the American democratic experiment – the one that changed the world -- to build a culture of civic engagement starting with young voters. For democracy to work, we need our citizens to take part. And this starts with first-time voters. If we believe in democracy, we have a patriotic duty to encourage our young people – and all people – to vote and to take an interest in civic life. It is an essential part of high-quality higher education to teach our young adults about the important public policy issues of the day at the local, state, and national level, and to encourage them to participate in shaping their government.

Election Integrity

The League of Women Voters supports voting systems that are secure, accurate, recountable, accessible, and transparent. Our democracy rests not only on the integrity of our election process, but also on the public confidence that citizens have in our elections.

The League of Women Voters of Maine does NOT argue that elections in Maine have been compromised or that the people responsible for the conduct of our elections are dishonest or incompetent. In fact, the League believes that we have enjoyed a generations-long record of professional, nonpartisan, voter-friendly administration of elections at both the state and municipal level. Our town and city clerks are among the most recognized and trusted government officials in our communities.

Furthermore, research at the MIT Election Data and Science Lab indicates that good election administration makes a difference in voter participation: “[V]oters tend to be more confident when they don’t wait a long time to vote, when they encounter polling place officials who seem competent, and when they vote in person rather than by mail.”⁴

We support measures to ensure the continuation of Maine’s legacy of good election administration and transparency as a healthy tonic to apathy and cynicism. We hope that the citizens of Maine will continue to have access to sufficient information to be confident in the integrity of our election process. We are pleased that all Maine voters cast voter-verified paper ballots, and we support continuation of that practice.

⁴ <https://electionlab.mit.edu/research/voter-confidence>, accessed March 19, 2018.

Maine and other states have opportunities to work together to enhance elections consistent with national standards. In response to numerous process concerns identified during and after the 2000 presidential election, the League of Women Voters of the United States established an Election Audits Task Force to conduct a yearlong study of election audits. The report of the task force emphasizes the importance of transparency in election procedures and the role of post-election audits in identifying errors, whether those errors stem from deliberate manipulation or from inadvertent mistakes.⁵

We urge the Secretary of State to join 23 other states in subscribing to ERIC, the Electronic Registration Information Center, which can help states maintain accurate registration rolls when voters move between states. We also support measures to institute a program of post-election audits in Maine carefully designed to limit the risk that election returns may produce an incorrect outcome or that election systems have been compromised. And finally, we support measures to increase transparency in the conduct of our elections, including development of a formal complaint process.

We believe these measures to be more effective in supporting election integrity than some others that might be proposed under that guise.

Automatic Voter Registration

The League of Women Voters of Maine, together with our national affiliate and sister Leagues across the country, support new mechanisms to assist in voter registration, including automatic voter registration (AVR). The League of Women Voters of Oregon, California, Alaska, and Connecticut were part of the coalitions driving AVR forward in their states, paying close attention to bill language to ensure that the new systems of registration did not negatively impact underrepresented communities. We support provisions and safeguards to ensure that all eligible Americans can participate in AVR and that those who are not eligible to vote are not wrongly brought into the system by government action.

If done correctly, Automatic Voter Registration (AVR) can help states modernize their current paper-based systems with systems that use electronic government data to identify and register eligible Americans to vote. AVR also creates governmental efficiencies by standardizing a single unified change of address system for the benefit of multiple participating state agencies. When eligible citizens interact with qualified agencies under the National Voting Rights Act (NVRA, aka Motor Voter), they should automatically be given an opportunity to register, and those registration records should be digitized and promptly delivered to local authorities through a secure electronic protocol. AVR can ensure that once citizens are signed up, they remain registered with the correct address when they move within the state.

⁵ League of Women Voters of the United States, "Report on Election Auditing" (2009). <http://lww.org/content/report-election-audits-task-force>, accessed April 10, 2017.

We do have some questions based on anecdotal information about whether all qualified state and federal agencies in Maine are currently complying with the NVRA, but we have not undertaken a definitive study in that regard.

Incarcerated Citizens

Maine is one of only two states in the country that offers incarcerated citizens full voting rights. Over the last several years, we have seen legislation proposed to curtail those rights. None of those measures has so far prevailed. The citizens who would be affected by some of these proposals have, no doubt, committed terrible crimes. But among the sentencing options these people face, loss of citizenship is not one. There is evidence that continuing to recognize the citizenship of criminal offenders offers a viable pathway to rehabilitation and return to civil society. So long as citizenship pertains, so should the right to vote.

Meanwhile, there are real risks. Problems in other states in past elections have drawn headlines and demonstrated the difficulty in maintaining accurate voting lists when “purging” citizen offenders from the list. In some states, otherwise eligible voters had difficulty in voting because their names were erroneously purged because they were similar to those of ineligible citizens convicted of a felony. Implementing this proposal would make it more difficult to maintain accurate voting lists, burden our election officials, and raise the potential of inconveniencing or intimidating eligible voters for an imperceptible public benefit.

According to the Brennan Center for Justice, laws in other states that prevent felons from voting are deeply rooted in our country’s troubled racial history and have a disproportionate impact on minorities. And it’s not just in the South: a study released in 2010 of New York’s constitutional history traces that state’s current felony disenfranchisement law to a century-long effort to keep African-American citizens out of the voting booth.⁶ The magnitude of prisoner and ex-felon disenfranchisement elsewhere in the United States has serious implications for democratic process and racial inclusion. Maine should not go down this path.

Same Day Registration

Since 1973, Maine voters have enjoyed the right to register in person up to and including Election Day.⁷ In 1972, the year before adoption of Election Day registration, Maine ranked 21st among the states in voter turnout. By 2000, Maine ranked 3rd.⁸ We have consistently been in the top 5 states for voter participation during the entire period since.

⁶ Press release from the Brennan Center for Justice at NYU Law School, February 12, 2010, <http://www.brennancenter.org/press-release/new-yorks-felon-voting-bar-has-deep-roots-jim-crow> [February 26, 2013]. Also see, Alexander, Michelle. The New Jim Crow: Mass Incarceration in the Age of Colorblindness. New York: New Press, 2010.

⁷ Neuborne, Burt, *Eliminating Barriers to Voting: Election Day Registration*, Brennan Center for Justice at NYU Law School and Demos – A Network for Ideas and Action, November 30, 2001, p. 19.

⁸ Neuborne, Burt, *Eliminating Barriers to Voting: Election Day Registration*, Brennan Center for Justice at NYU Law School and Demos – A Network for Ideas and Action, November 30, 2001, p. 9.

In fact, in 2008, the 5 states with the highest voter turnout all had Election Day registration.⁹ The 9 states with Election Day Registration had, on average, a voter turnout more than 7 percentage points higher than other states.¹⁰ Maine's turnout was more than 9 percentage points higher than other states.¹¹

Tens of thousands of Maine voters register during the last 5 days that include Election Day. In 2008, 55,806 voters registered during that period. In 2010, 19,382 voters registered during that period.¹²

In 2011, the Maine state legislature repealed our same-day registration law. Voting rights activists mounted a people's veto campaign to undo the repeal. We succeeded by a landslide 60% margin. The feat of repealing same-day registration has not been attempted since.

Conclusion

As I said at the beginning of my testimony, what we have here in Maine is something that people from all across the country should want: deep civic engagement and high voter participation are a source of great pride.

Voting is the most fundamental expression of citizenship in our democracy. The expansion of the franchise to include all Americans regardless of race, ethnicity or gender, and the breaking down of barriers to citizens' voter participation – from property ownership to literacy tests to poll taxes – has been one of the great successes in the evolution of American democracy.

Here in Maine, our message should be simple: if you are 18 years of age, a citizen of the United States, and a resident in your town, you cannot be denied the right to vote. We welcome and encourage you exercise that right. Full stop.

⁹ Minnesota, Wisconsin, Maine, New Hampshire and Iowa.
http://www.demos.org/pubs/voterswin_09.pdf (February 15, 2011).

¹⁰ 69 percent v. 62 percent. http://www.demos.org/pubs/voterswin_09.pdf (February 15, 2011).

¹¹ http://www.demos.org/pubs/voterswin_09.pdf (February 15, 2011).

¹² Information provided by Deputy Secretary of State Julie Flynn.

Addendum on Photo ID

Here's why we have consistently and strenuously opposed these Photo ID bills:

It could disenfranchise voters: We could find anywhere between 5% and 16% of our eligible voters do not have the required ID, according to a recent study published by the Government Accountability Office.¹³ Percentages are higher among the elderly, ethnic minorities, and low income voters, and these are the same groups who have traditionally faced barriers at the polls.¹⁴ The cost of obtaining a driver's license or state-issued ID in Maine may seem modest, but the expense and complexity of the process present real barriers to voting when one considers the time off from work and the travel to obtain them, *especially for the elderly or disabled*. This has real consequences. The GAO study cited above concluded that voter participation fell between 2% and 3% in states implementing photo ID between the presidential election years 2008 and 2012. That could be twenty thousand voters in Maine's presidential election. Many, many times more eligible voters will be dissuaded from voting by this law than the number of ineligible voters who will be prevented from casting votes.

The cost/benefit equation doesn't add up. We will spend a lot of taxpayer money to implement a photo ID law, creating barriers to voting for tens of thousands of eligible citizens, in order to prevent a very few, if any, ineligible voters from breaking existing law. When photo ID legislation was debated in the 125th Legislature, then-Secretary of State Charles E. Summers, Jr. convened the 2012 Elections Commission to review this and other issues. Quoting from their 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."

It's unnecessary: Voter ID laws are designed to address one exceedingly rare kind of voter fraud -- impersonating someone else at the polls. So rare is this phenomenon that a study conducted by Justin Levitt, a professor at the Loyola Law School in Los Angeles, found that out of the more than one billion votes cast between 2000 and 2014 in the U.S., there were 31 credible cases of fraud.¹⁵ The Brennan Center for Justice notes that this number is likely high as it counts all credible cases, not only the ones that were prosecuted or which resulted in convictions.¹⁶ Court opinions and other investigations confirm the rarity of voter impersonation. We understand and

¹³ "Issues Related to State Voter Identification Laws," Highlights of GAO-14-634, a report to congressional requesters, September 2014, <http://www.gao.gov/assets/670/665965.pdf>

¹⁴ *Citizens without Proof: A Survey of Americans' Possession of Documentary Proof of Citizenship and Photo Identification*, November 2006, Brennan Center for Justice at NYU School of Law, a non-partisan public policy and law institute, http://www.brennancenter.org/dynamic/subpages/download_file_39242.pdf

¹⁵ *A comprehensive investigation of voter impersonation finds 31 credible incidents out of one billion ballots cast*, August 2014, https://www.washingtonpost.com/news/wonk/wp/2014/08/06/a-comprehensive-investigation-of-voter-impersonation-finds-31-credible-incidents-out-of-one-billion-ballots-cast/?utm_term=.56a029c0d2a4

¹⁶ *Debunking the Voter Fraud Myth*, The Brennan Center for Justice, January 2017, <https://www.brennancenter.org/analysis/debunking-voter-fraud-myth>

sympathize with those who worry about the integrity of our elections, and we support measures to safeguard this most vital democratic process. But we do not condone politicians using those fears to manipulate election law for political gain. Let's make election integrity a priority, but let's focus on measures that actually work to solve known problems. Photo ID, we fear, is just a wolf in sheep's clothing: a voter suppression effort dressed up to look like election integrity.

Here in Maine, in-person voter fraud simply does not happen. We know of only one case of voter fraud that has been prosecuted in more than 30 years. There is no evidence that this is occurring in significant numbers, and that's understandable. In order to change the outcome of an election by this means, one would have to persuade hundreds of people to commit a felony and risk jail time.

Indeed, since such activities are illegal, we would expect to see many reports of prosecutions and convictions if significant numbers of ineligible individuals were voting or attempting to vote under a false identity. While there is no question that election misconduct exists in some states, this has not been the case in Maine. Furthermore, there is no evidence that the types of fraud perpetrated elsewhere (e.g., improper purges of eligible voters, distributing false information about when and where to vote, absentee ballot fraud, tampering with registration forms) can be solved by strict photo ID laws.