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TO: The Honorable John Atwood, Chair  
Members of the Commission to Study the Conduct of Elections in Maine

FROM: Barbara McDade, President, League of Women Voters of Maine  
Shenna Bellows, Executive Director, ACLU of Maine

SUBJECT: Student Voting

DATE: October 15, 2012

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Thank you once again for your service to the State of Maine on the Commission to Study the Conduct of Elections in Maine.

At the hearing in Farmington two weeks ago (September 27), a student voter came to the podium to talk about the letter he received last year from the Secretary of State's office questioning his residency status and his compliance with Maine's motor vehicle law. We would like to take this opportunity to provide the Commission with additional information about that letter and to express our continuing concern about the messages conveyed to prospective student voters.

Attached is a copy of the letter that the Secretary of State sent to over 200 students in the fall of 2011, along with a letter signed by attorneys from Demos and the ACLU objecting to the Secretary's letter, and Secretary Summers' response. We believe 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.

To reiterate: our two organizations share the conviction that we should be encouraging – not discouraging – the lawful exercise of voting rights by all citizens 18 years and older who have established residency in the municipality where they wish to vote.

It is perfectly appropriate to inform students about Maine law and to encourage them to comply. However, it is a form of voter suppression to imply that voting is risky or dangerous, to make statements about the negative "consequences" of registering to vote, or to insinuate that student voters are putting themselves at risk for heightened scrutiny or prosecution under motor vehicle law because they register to vote.

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Section 11(b) of the Voting Rights Act, 42 U.S.C. § 1973i(b), explicitly prohibits voter intimidation or coercion:

No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for urging or aiding any person to vote or attempt to vote, or intimidate, threaten, or coerce any person for exercising any powers or duties under section 3(a), 6, 8, 9, 10, or 12(e).

The National Voter Registration Act of 1993 (“NVRA”), 42 U.S.C. § 1973gg-10, is explicit in prohibiting any officials from discouraging voter registration:

A person, including an election official, who in any election for Federal office -  
(1) knowingly and willfully intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce, any person for -  
(A) registering to vote, or voting, or attempting to register or vote;  
(B) urging or aiding any person to register to vote, to vote, or to attempt to register or vote[.]

We encourage members of the Commission to refrain from commentary that might be construed as discouraging students from voting, suggesting that student voters are under heightened scrutiny for exercising their voting rights, or indicating that our voting laws contain special risks for student voters . Such statements are not true.

What is clear is that students have the right to establish their residency in Maine and vote here if they wish to do so.

As law abiding citizens, they should also comply with Maine’s motor vehicle law, but in fact, the consequences for violating these laws have nothing to do with voting. Even violators of motor vehicle law still have the right to vote. This is true for students as much as it is for others who have newly relocated to Maine.

We are concerned that the continued focus on this issue serves to intimidate students and suppress student voting. Indeed, the “problem” of student voting has been raised as a concern by one or more commissioners at every single one of your hearings to date: in Augusta, Portland, Bangor, Farmington, and Lewiston; and after every one of these hearings, we have heard from those students present that they are confused and apprehensive – who have been more or less told by members of the Commission that they SHOULD BE confused and apprehensive. We do not believe this is appropriate. It violates the essence of the laws intended to protect voting rights.

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

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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.

For that reason, one reform that the Commission might consider recommending to the 126<sup>th</sup> Legislature would be a change in motor vehicle and/or election law to clearly decouple the two. We would be happy to suggest legislative language for such a proposal.

Thank you for your interest in this matter.