



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

DATE: April 3, 2019

RE: LD 211 - An Act To Open Maine's Primaries and Permit Unenrolled Voters
To Cast Ballots in Primary Elections

Good morning. My name is Barbara Kaufman. I'm a member and volunteer with League of Women Voters of Maine, and a resident of Freeport. Between 2017 and 2018, I co-chaired the League's study on candidate selection systems. The League of Women Voters of Maine (LWVME) submits the following testimony *in support of* LD 211.

Earlier this session, we distributed to this committee copies of our "Primary Elections Study Guide."¹ This document provides an overview of candidate selection systems as well as a series of questions that have been used by our membership to develop the following consensus statement:

"The League of Women Voters of Maine believes that primary elections should encourage broad voter participation and that all voters should have the opportunity to participate in the primary election of their choice. More specifically, the LWVME supports "semi-open" primaries over the various forms of closed or fully open primaries for candidate selection at all governmental levels."

We support policies that permit broad citizen participation in primary elections. Data provided by the Secretary of State's office indicate that 38% of Maine voters are registered as "unenrolled," a larger group than either registered Republicans or registered Democrats. While current Maine law allows each party to determine whether to open their primaries to unenrolled voters, only the Green Independent Party allowed participation of unenrolled voters during the 2016 primary, leaving large numbers of voters ineligible to vote in the major party primaries.

When unenrolled voters are excluded from party primaries, their candidate options are limited by more partisan voters. Candidates selected in closed primaries may have limited appeal to the electorate at large. In jurisdictions dominated by a single party, the candidate who wins the party primary is essentially guaranteed to win the general election.

It is true that unenrolled voters in Maine are currently able to vote in party primaries by registering a party preference on the day of the election. They can unenroll three months later.

¹ http://www.lwvme.org/files/Primary_Study_Guide.pdf

Eliminating the registration requirement simply reduces the psychological barrier and the paperwork required of voters and local election officials. It is possible that some voters who have resisted party registration will be more inclined to vote in primaries that don't require this step.

Opening party primaries to individuals not enrolled in the party is not unusual in American politics. The National Conference of State Legislatures documents six categories of primary rules, finding eight states which permit unenrolled voters to vote in a party primary, as proposed in this bill. An additional 19 states have primary systems more open than proposed here, 15 with fully open party primaries, and four additional states with top-two primaries as discussed in testimony on LD 114 earlier this session.²

The League of Women Voters supports this bill in opening all Maine primaries - including any presidential primaries - to unenrolled voters. However, we alert you to two potential conflicts with regard to presidential primaries that you may wish to clarify prior to any work session on this bill.

- LD 245 - An Act to Reestablish a Presidential Primary System in Maine explicitly states that, "only a voter who is enrolled in a party may vote in that party's presidential primary election" and may conflict with this bill, which appears to apply to all party primaries. We will support amending LD 245 to allow participation by unenrolled voters.
- Rules of the Democratic National Committee adopted in 2016 may require unenrolled voters to state their intention to "participate as a Democrat" in any presidential primary.³ Rules of the Republican National Committee appear to be silent on this issue.⁴

Because LWVME also supports policies that balance the interests of major parties, small parties, and independent candidates and permit political parties to perform their traditional functions, we would not oppose measures that provide for the voter history record to show which ballot unenrolled voters selected when they voted in a primary election. This may satisfy DNC requirements, as well, but we urge you to consult with party officials for a definitive interpretation in that regard.

The League of Women Voters of Maine gives its highest priority to policy principles that protect and expand voter participation and turnout in all elections, including candidate selection systems. We believe that primary elections should encourage broad voter participation and that all voters should have the opportunity to participate in the primary election of their choice. For that reason, we support LD 211.

² <http://www.ncsl.org/research/elections-and-campaigns/primary-types.aspx>

³ https://www.demrulz.org/wp-content/files/2020_Delegate_Selection_Rules_Final_Incorporated_9.7.18.pdf

⁴ https://prod-cdn-static.gop.com/media/documents/2016-Republican-Rules-Reformatted2018_1533138132.pdf