



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

DATE: February 6, 2019

RE: LD 245 An Act To Reestablish a Presidential Primary System in Maine

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Good morning. My name is Ann Luther. I live in Trenton, and I'm here as a volunteer representing the League of Women Voters of Maine. The LWVME strongly supports LD 245.

The League of Women Voters of Maine is a nonpartisan political organization that has been working since 1920 to encourage informed and active participation in government, to increase understanding of major public policy issues, and to influence public policy through education and advocacy. We never support or oppose any political party or candidate.

Last year the LWVME completed a lengthy study of primary elections. The study examined, among other things, the advantages and disadvantages of "open primaries," "closed primaries," and "semi-open primaries." We also examined whether the presidential nomination system in Maine should discontinue party caucuses and return to statewide primary elections.

The study recommends a return to primaries for the presidential candidate nomination process. The study and an assortment of supporting materials can be reviewed on our website at this link: [http://www.lwvme.org/primary\\_study.html#s01](http://www.lwvme.org/primary_study.html#s01). I have attached copies of our study guide to my testimony.

The conclusion of our study is summarized in an official statement adopted by our board on November 2018, which reads in part:

The League of Women Voters of Maine (LWVME) gives its highest priority to policy principles that protect and expand voter participation and turnout in all elections, including candidate selection systems. The LWVME supports policies that permit broad citizen participation in primary elections while at the same time balancing the interests of major parties, small parties, and independent candidates and permitting political parties to perform their traditional

functions. In addition, LWVME values policies that ensure elections are transparent, verifiable, and auditable. 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.

<b>Characteristics</b>	<b>Presidential Caucuses</b>	<b>Presidential Primaries</b>
Purpose	A local (municipal, county, or district) meeting of registered party members to conduct party business and choose local delegates to the party's State Convention, which determines the candidate the state will support for nomination at the national convention. <sup>1</sup>	A state-run election to determine who the party's delegates will vote for at the state and national conventions. Uses separate ballots for each party; voters vote one ballot; party rules determine delegate selection. <sup>2</sup>
Who sets rules?	Party is fully in charge.	State government authorizes primaries and, in consultation with party leaders, sets rules about when, where, who gets on ballots, vote counting, etc.
Who votes? <sup>3</sup>	Registered party members.	Depends on the degree of "openness" of the state's primary legislation and party decisions; ranges from party members only to all registered voters.
Who funds?	Party supports all costs.	State and local governments.
Setting Dates?	State parties pick caucus dates.	State with party influence; but national party can "take away" delegates if state date does not respect national party calendar.
Locations?	Variable and determined by each party—usually require more travel for participants than primaries do.	The same established polling places used in general elections, although can be a subset in larger cities.
How is turnout monitored?	Parties do this, with no requirement to report results to the state or the public.	The State reports numbers of voters casting a primary ballot for each party and candidate. Results are publicly available. Parties report delegate selection.
Who counts votes?	Parties do this, with no requirement to report results to the state or the public.	The State tallies votes and makes them public using resources available for general elections.

Those are the principles that guided us in concluding that a return to presidential primaries would be beneficial for democracy in Maine. Perhaps the greatest consideration in our position on presidential primaries is simply that the number of Mainers who participate in caucuses is far smaller -- even in the years where the caucus seems overwhelmed by large numbers of voters -- than the number who participate in primaries. Primaries offer a much broader gauge of public support, and draw a more representative electorate, than party caucuses.

For many of the same reasons, our study also recommends adopting a “semi-open primary” approach, and we will testify on that subject separately next week. If we could suggest one amendment to this bill, it would be to allow unenrolled citizens to participate in the presidential primary of their choice.

In addition to those general principles, we ask you to consider these three recommendations:

- First, we agree with the Secretary of State’s report from last year that the date of the primary should be set in law. This is an important decision. It should have the imprimatur of this branch of government and should be established early.
- Second, the date must be set so that Maine is not disadvantaged in any major party’s nomination process. We should set the date mindful of party rules that could reduce the number of Maine delegates to each party’s national convention.
- Third, the state should provide adequate funds for the primary election, although municipalities should share in the costs. Our democracy is of fundamental importance to our well-being as a state. Improving our elections cannot be deferred, nor should the people and offices charged with election administration be starved of resources.

The arc of history in Maine and in this country -- since the early days when nominees were chosen in Washington D.C. by congressional caucuses -- has leaned toward broader direct participation in democracy. While we recognize that the political parties have an important role to play for many voters, our future depends more fundamentally on an active and informed citizenry.

On the basis of this study and our long involvement with voting and election methods issues, we support the shift to presidential nominating primaries in Maine and ask you to support LD 245. We also urge the legislature to identify sufficient funding so that our democratic process can go forward smoothly and with full public confidence.

Attached to this testimony you will find the statement we issued upon conclusion of our study and an editorial from Monday urging support for this measure. We have many more resources within our membership and on our website which we are more than happy to share.

*Please read and discuss the different opinions in the next table before answering CQ2 a-d.*

<b>Presidential Caucuses</b>		<b>Presidential Primaries<sup>1</sup></b>	
<b>Arguments for</b>	<b>Arguments against</b>	<b>Arguments for</b>	<b>Arguments against</b>
<ol style="list-style-type: none"> <li>Helps build and preserve political parties as grassroots institutions that inform and organize voters.</li> <li>Keeps decisions with party activists, retaining power for those who care most.</li> <li>Weakens influence of special interests from outside the party.</li> <li>Encourages voter discussion and engagement; provides opportunity for questions; participants must listen to counter arguments.</li> <li>When last-place candidate is eliminated, supporters can choose another candidate.</li> <li>Dates/locations determined by individual parties—no need to coordinate at the state level.</li> <li>Avoids public expenditures for primaries, saving taxpayers money and not forcing Unrolled to pay for activities of parties they do not wish to support.<sup>2</sup></li> </ol>	<ol style="list-style-type: none"> <li>Lower voter turnout than primaries so may not be a true image of public opinion.</li> <li>Favors candidates who are popular with activists, therefore less likely to get a centrist candidate.</li> <li>People like the elderly, disabled, military and others serving abroad, or working, may not be able to give up 2 or more hours to attend a caucus and vote.</li> <li>Secret ballot is removed in Democratic caucuses (generally still used in Republican ones).</li> <li>No public records of turnout, votes taken, and allocation of delegates to State Convention.</li> <li>Not everyone – even registered party members – understands the process.</li> </ol>	<ol style="list-style-type: none"> <li>Turnout is higher than for caucuses.<sup>3</sup></li> <li>More likely than caucuses to allow participation by non-party members.<sup>4</sup></li> <li>Held in regular polling places known by voters and easy to access.</li> <li>Process familiar and easy to understand since it is consistent with other elections.</li> <li>Encourage state visits from federal candidates, improving voter knowledge of candidates.</li> <li>Records maintained by government agencies and available to the public.</li> <li>Professional election staff using accepted procedures conduct the elections producing auditable results.</li> </ol>	<ol style="list-style-type: none"> <li>Provides major parties with a list of voters’ party preferences at taxpayer expense.</li> <li>Lengthens the campaign season and gives unequal attention to primaries in different states.<sup>5</sup></li> <li>Primaries pre-determine the main outcomes of party national conventions—selection of candidates—yet much taxpayer money goes to national conventions.<sup>6</sup></li> <li>A simple vote requiring no voter engagement or discussion about who would be the best candidate.</li> <li>Undermines the grassroots caucus system, which allows all members to participate in the formation of the platform.</li> <li>Weakens party leaders and party discipline.<sup>7</sup></li> <li>Reduces party influence over choice of candidates party will support.</li> </ol>

Finally, as you consider this bill, some historical background might be valuable to the Committee.

Interestingly, the United States Constitution is silent about how presidential candidates are nominated. Early in our history, as political parties emerged as a major institution in national politics, presidential nominees were chosen by the members of Congress gathered in their separate party caucuses. In the first decades of our country’s history there was no popular vote on nominations for president or even caucuses within the states.

After 1824, nominees were determined by national nominating conventions of the political parties. But party insiders soon became adept at controlling who was able to participate in these national conventions, leading to increasing discontent and further reforms that eventually shifted more power into the hands of the people generally. Of course, “the people” at that time excluded large numbers of our fellow Americans -- women and racial minorities in particular.

It wasn’t until late in the 19th Century that voters were given a more direct role, and in some states parties began to use state primaries to choose delegates to state conventions who in turn would vote on the presidential candidates seeking the party nomination.

Through most of the 20th Century, the states used a mixture of primaries and caucuses. After a tumultuous year in 1968, both the Republican and Democratic parties continued to move in the

direction of primaries rather than state nominating caucuses, and primary elections are now used by a majority of states.<sup>1</sup>

<b>Timeline of Noteworthy Changes in Maine’s Presidential Candidate Selection System</b>	
<b>Date</b>	<b>Type of system or change</b>
Pre-1995	Party caucuses. <sup>1</sup>
1995	Presidential primary law passed.
1996	Presidential primary held.
2000	Presidential primary held.
2003	Primary law repealed, “largely at behest of the parties, which view caucuses as valuable organizational and voter engagement events.” <sup>2</sup>
2004 – 12	Presidential caucuses conducted; some problems for Republicans reported in 2012. <sup>3</sup>
2016	Democratic and Republican parties have major capacity problems due to high turnout. LD 1673 passed (An Act to Establish a Presidential Primary System in Maine) by the 127th Legislature. Secretary of State (SoS) directed to examine implementation issues and submit a report by end of 2017. <sup>4</sup>
2017	SoS report on LD 1673 submitted to legislature with recommendations for implementing 2020 primary elections.
2018	Legislature needs to act on SoS report before December 1, 2018, or LD 1673 is automatically repealed and Maine continues with caucuses.

Each state’s process for “nominating” presidential candidates is really a system for directing how party delegates to their national conventions must vote -- at least in the first round(s) of balloting at their respective conventions. Since the constitution says nothing about the nominating process, and since the political parties have greatly shaped the process over the years, there is good reason to consider how laws controlling nominations affect the parties. But there is also a broader public interest. The process serves as a barometer of how people are reacting to the candidates as they campaign -- significant information of value to voters participating in our democratic process.

While we support LD 245, it must be considered in light of a number of intersecting issues and pending policy questions:

- Will ranked choice voting be used at any phase of the process?
- As the national political parties adapt their nomination policies and procedures (e.g. measures to reduce the power of superdelegates and encourage greater participation in nominations), how will these changes interplay with the shift envisioned by LD 245?

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<sup>1</sup> "In 2016, 35 U.S. jurisdictions (including states and territories) held a presidential preference primary to allocate convention delegates to both parties' presidential candidates. In 13 jurisdictions, both parties held caucuses where party members gathered in precinct or county meetings to vote for delegates to a state convention that ultimately selected national convention delegates. Eight jurisdictions utilized a divided process in which one party held a primary to allocate delegates and the other conducted a caucus or convention." <https://ballotpedia.org/Caucus>

We note that under Maine law the parties would continue to hold municipal caucuses for a variety of purposes, including the selection of delegates from each town to the biennial state party conventions. For those whose concern about the strength of the political parties is paramount, we simply point out that parties continue to have a variety of tools and advantages for remaining strong and viable features of our democracy.

## **LWVME POSITION ON PRIMARIES/CANDIDATE SELECTION SYSTEMS**

Adopted by the LWVME State Board on November 17, 2018.

The League of Women Voters of Maine (LWVME) gives its highest priority to policy principles that protect and expand voter participation and turnout in all elections, including candidate selection systems. The LWVME supports policies that permit broad citizen participation in primary elections while at the same time balancing the interests of major parties, small parties, and independent candidates and permitting political parties to perform their traditional functions. In addition, LWVME values policies that ensure elections are transparent, verifiable, and auditable. 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.
- Presidential primaries over presidential caucuses, recognizing that the rules concerning the primaries will be more consistent with League values if they are "semi-open." The League also supports Presidential primaries held on set dates that do not cause a loss of party delegates.

The LWVME defines a "semi-open" primary as a primary in which unenrolled/unaffiliated voters may vote on one ballot per primary without having to enroll in that particular political party. Voters enrolled in a political party can vote only on the ballot of their party.

- Government, as opposed to party, funding and administration of federal, state, and county primaries.

The LWVME neither supports nor opposes nonpartisan primaries. The LWVME will continue to monitor experience with nonpartisan primaries and re-examine this issue when the results of more empirical studies are available.

### **DESCRIPTION OF STUDY**

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A Consensus Study process is a unique and defining feature of the League of Women Voters, requiring openness, curiosity, and patience to study an issue and then work as a group to find agreement when responding to the consensus questions.

This study examined the advantages and disadvantages of

- Primaries vs caucuses
- Open vs closed primaries, with varying degrees of openness
- Nonpartisan primaries

The Study Committee on Primary Elections focused on (1) describing the evolution of Maine's current systems for candidate selection, and (2) collecting information on the strengths and weaknesses of candidate selection systems used in Maine and elsewhere. The Study Guide summarizes the salient findings from the study, provides references for additional reading, and asks local units and members-at-large to respond to a set of Consensus Questions (CQ) about Maine's current caucus/primary system and alternative systems for selecting candidates.

# Portland Press Herald

February 4, 2019

## Our View: Maine should have a presidential primary

Bringing more people into an important process is well worth the projected cost.

**BY THE EDITORIAL BOARD** The caucus system is a good organization-building tool for political parties, but it's not up to the task when large numbers of Mainers want to help select their party's presidential nominee.

There is an attractive mythology told about the Maine party caucuses used to nominate presidential candidates.

Neighbors get together in classrooms and church basements and exchange views about who they think should lead the nation and what issues they think are the most important. It's an exercise in direct democracy right out of a Norman Rockwell painting.

Then there is the version more people have seen with their own eyes. Caucuses are for people who can devote the better part of a day to politics, and who have the physical strength and stamina to go through a complicated process.

In 2016, caucus-goers in Portland and other places did little but stand in line in frigid weather, waiting to be checked in. Other towns that recorded 500 votes in the general election had only five voters signed up to caucus. It's a system that rewards party insiders and discourages broad participation.

### TIME FOR A REAL ELECTION

It's time that Maine joins the majority of states and makes its once-every-four-years presidential preference selection with a real election.

A bill to do just that sailed through both houses of the Legislature three years ago and was signed by Gov. Paul LePage. But it did not appropriate any funding and unless that is secured this year, Maine will keep its inadequate election system. A bill that would fund the primary system has been submitted by state Sen. Louis Luchini, D-Ellsworth, and deserves our support.

The only stumbling block is money, and it's not very much. The 2016 law called for election officials to study the costs, and Secretary of State Matthew Dunlap calculated that a primary would cost just under \$900,000. Spread out over a population of 1.3 million people once every four years, it seems a small price to pay.

Political parties like the caucus system because they are good recruitment and organization-building tools. After a barrage of television ads and news coverage, people will come to a caucus, sign nomination papers for candidates and otherwise help do the work of the party so that they can register their presidential preference. But that is not a good enough reason to inconvenience or exclude a large swath of the public.

### OTHER BILLS

There are other bills up for consideration that could affect a presidential primary. One that is worth careful attention would open all primaries to unenrolled voters, allowing independents to participate without having to join a party. But debate over the merits of that reform should not get in the way of completing the job started three years ago, and making sure that there is a primary system in place for the 2020 election cycle.

When helping to fill the highest office in the land, Maine should stop using a system that's better equipped to elect a road commissioner at a town meeting. Before the new legislative session gets heated, lawmakers should take care of this leftover piece of business.