



LEAGUE OF WOMEN VOTERS OF MAINE

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TO: The Honorable Senator Garrett P. Mason
The Honorable Representative Louis J. Luchini, Co-chairs
Members of the Joint Standing Committee on Veterans and Legal Affairs

DATE: February 15, 2017

RE: LD 121 An Act To Require Photographic Identification to Vote

Good morning, Senator Mason, Representative Luchini, and members of the Joint Standing Committee on Veterans and Legal Affairs. My name is Ann Luther. I am a resident of Trenton. I am here today as a volunteer member of the League of Women Voter's Advocacy Committee to testify in opposition to LD 121, An Act To Require Photographic Identification to Vote.

For nearly 100 years, Leagues 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.

Here's why we oppose LD 121:

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.¹ 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.² 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 next 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.

¹ "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>

² *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

It will be expensive: Implementation of voter photo ID laws in other states has cost millions of dollars. Although some photo ID laws have passed constitutional muster, these laws are still subject to constitutional challenge if particular groups or individuals are burdened by the law.³ In addition to the cost of offering free identification cards, as provided in this bill, other states have faced legal challenges if they did not also take other measures. Three-year costs in Maine could be \$4 million or more.⁴ Some of the costs that may need to be addressed include:

- Providing free ID cards to those who need them
- Opening new ID-issuing offices with expanded weekend and evening hours
- Absorbing the cost of providing underlying documents, such as birth certificates
- Personnel and administrative costs for providing exemptions for certain individuals or groups
- Public education campaigns
- Poll worker training and other administration
- Defending against possible lawsuits
- Additional absentee ballots and processing
- Costs to local governments that may need to extend hours of operation

The cost/benefit equation doesn't add up. We will spend a lot of taxpayer money to implement this 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 legislation similar to this bill 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 counter 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, there were 31 credible cases of fraud.⁵ 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.⁶ The full report from the Brennan Center for Justice is included in this document.

³ *The Cost of Voter ID Laws: What the Courts Say*, Vishal Agraharkar, Wendy Weiser, and Adam Skaggs, February, 2011, Brennan Center for Justice at NYU School of Law, <https://www.brennancenter.org/publication/cost-voter-id-laws-what-courts-say>.

⁴ \$3.8 million over three years, *Maine Voter ID: At What Price*, Maine Center for Economic Policy, November 2012, http://www.mecep.org/wp-content/uploads/2014/09/Voter_ID_11-19-2012.pdf; \$2 - \$6.3 million, "Report of the 2012 Elections Commission," January 2013, http://lwwme.org/files/Election_Commnn_Report_LD_199_1_.pdf

⁵ *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

⁶ *Debunking the Voter Fraud Myth*, The Brennan Center for Justice, January 2017, <https://www.brennancenter.org/analysis/debunking-voter-fraud-myth>

Court opinions and government investigations in states across the country have yielded one consistent and conclusive fact; in-person voter fraud is so rare as to be considered non-existent.⁷

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.

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.

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 literacy tests to poll taxes – has been one of the great successes in the evolution of American democracy. We believe that LD 121 would turn back the clock and erect unnecessary barriers to voter participation.

We respectfully urge that this Committee vote “ought not to pass” on LD 121.

Addendum on Provisional Ballots Procedures

We particularly note our objection to the new provisional ballot language included in LD 121. This differs from our current challenged ballot procedure, which the League believes to be a best-practice model and an exemplar for other states. Without getting into details here today about why our challenged ballot procedure is vastly superior, suffice it to say that the proposal here would be a step backward for voters and election officials. It would compromise the secrecy of the ballot for each and every provisional ballot cast. It would require additional processing by election officials after Election Day. Meanwhile, election officials would be asked to follow the provisional ballot procedure for those voters who present without approved ID. They would still follow the challenged ballot procedure for voters challenged for any other reason. Without adequate training, this is sure to create confusion and errors in administration and snafus at the polls.

⁷ *Debunking the Voter Fraud Myth*, The Brennan Center for Justice, January 2017, <https://www.brennancenter.org/analysis/debunking-voter-fraud-myth>