

The Maine Heritage Policy Center

Testimony to Support LD 1669

"RESOLUTION, Proposing an Amendment to the Constitution of Maine To Help Ensure That Direct Initiatives of Legislation Are Compatible with the Constitution of Maine and Statutory Law"

Senator Luchini, Representative Schneck and distinguished members of the Committee on Veterans and Legal Affairs, my name is Adam Crepeau and I serve as a policy analyst at The Maine Heritage Policy Center. Thank you for the opportunity to testify in support of LD 1669.

The Maine Heritage Policy Center supports LD 1669 because it would act as a safeguard to ensure unconstitutional measures do not receive access to the ballot in Maine. The state of Maine has been exposed to unconstitutional measures in the past -- most recently with ranked-choice voting. If this bill passes, it would simply give voters the opportunity to decide if they want to allow unconstitutional questions on the ballot.

The passage of unconstitutional measures in Maine is not unprecedented. After voters approved ranked-choice voting through a ballot initiative in 2016, the Maine Supreme Judicial Court released an advisory opinion stating that ranked-choice voting is not compatible with the Constitution of Maine in state-level general election races.¹ The initiative conflicted with the requirement of a plurality for the aforementioned races. The Court said, "In essence, the Act is inapplicable if there are only two candidates, and it is in direct conflict with the Constitution if there are more than two candidates."² Thus, the original initiative passed by voters needed to be altered to conform to the Constitution.

Almost half of the United States does not have a direct initiative or referendum process in place. In fact, only 27 states, including the District of Columbia, allow citizens to put an initiative or referendum on the ballot.³ LD 1669 would not limit ballot access but simply prevent groups from wasting their time and energy on collecting signatures for unconstitutional ballot measures. This legislation also promotes good governance; it would help prevent taxpayer dollars and state resources from being wasted on initiatives that should not have gained ballot access in the first place due to their incompatibility. When ranked-choice voting was altered, time and resources

¹ https://www.courts.maine.gov/opinions_orders/supreme/lawcourt/2017/17me100.pdf

² Ibid.

³ https://ballotpedia.org/States_with_initiative_or_referendum

were wasted to bring the new voting system into compliance.⁴ If this bill passes, the legislature would have less of an excuse to alter direct initiatives approved by voters and less time would be wasted to fix unconstitutional initiatives.

In sum, LD 1669 accomplishes three goals: It would stop ballot initiatives that are incompatible with the Constitution of Maine from gaining ballot access, eliminate common excuses used by the legislature to alter initiatives that have passed and would prevent groups from wasting their time collecting signatures for initiatives that will inevitably be altered due to their conflict with the Constitution.

For those reasons, The Maine Heritage Policy Center urges the committee to vote, “Ought to Pass” on LD 1669. Thank you.

⁴ <https://legislature.maine.gov/9205/>